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PRO

L. CORNELIO BALBO ORATIO

AD IUDICES.

EDITED FOR SCHOOLS AND COLLEGES,

BY

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PREFATORY NOTE.

THIS edition has been prepared on the same general plan as that of the speech Pro Archia. The speech for Balbus, however, has been so generally neglected[1], and seems so little likely to be soon edited again, that I felt it advisable to attempt to produce an edition which would be worth the notice of mature scholars, besides being useful to the undergraduates and boys at public schools, for whom it is primarily designed. There seems to be in England a common impression, which I hope this edition does not justify, that it is impossible to produce editions of the Classics which shall be at once useful to junior students and to professed scholars[2]. In Germany opinion sets in the other direction, for many of the editions designed for schools are also of the greatest use for advanced scholars. This speech is so full of matter illustrating the Roman modes of dealing with the populations subject to their Empire, that it

[1] Neither Teuffel in his "History of Roman Literature" nor Prof. Mayor in his "Bibliographical Clue" mentions any *separate* edition of the "Pro Balbo". So far as I know, it has never before been separately edited.

[2] An editor of a book in the "Pitt Press Series" was lately taken to task by a reviewer for giving in a note a reference to Roby's Grammar!

deserves treatment more thorough than I have been able to give it. The text being even now more unsettled than that of any other speech of Cicero, I have given it my best attention in an Appendix. In a few instances I have felt obliged to adopt emendations of my own. The Latinity of the speech has been treated with considerable minuteness, because the knowledge of Latin Prose expression is still deficient when compared with the progress made in other departments of pure scholarship by those for whom the edition is especially constructed.

In dealing with a speech for which so little has been done by scholars, I cannot hope to have escaped from making errors, though I trust not in matters of moment.

J. S. REID.

CHRIST'S COLLEGE, CAMBRIDGE,
January, 1878.

INTRODUCTION.

a. The defendant L. Cornelius Balbus.

L. CORNELIUS BALBUS was born at Gades in Spain somewhere about the beginning of the last century B.C. His family held high rank in the city[1], which was one of the largest and most flourishing of the Roman empire. Balbus served in the Roman army during the whole time of the wars in Spain from 79 to 70 B.C.[2], having gained the friendship of Metellus, Memmius, and finally of Pompeius himself. The last-named commander, under the provisions of the *lex Gellia Cornelia*[3], conferred on Balbus the Roman franchise. There was a connexion dating from old times, between the town of Gades and the Cornelian family, and one of the consuls who passed the law was a Cornelius. These facts led Balbus to adopt the *nomen* Cornelius, and the *praenomen* Lucius was probably assumed in grateful recollection of the L. Cornelius Lentulus who commanded the Romans in Spain from 206 to 200 B.C. and had done great services to Gades[4] The *cognomen* Balbus was one of the commonest, being used by nearly a score of Roman families. The assumption of this name may have been intended as a mark of regard for T. Ampius Balbus, an intimate friend of Pompeius.

[1] § 5, l. 25; 6, p. 23, l. 10; 43, l. 16; Plin. N. H. 5, 36; 7, 136. In Att. 7, 3, 11 he is called *Tartessius*, Tartessus being a name loosely applied by the Romans to the S. W. of Spain.

[2] See nn. on § 5.

[3] See below, p. 11.

[4] Cf. Liv. 28, 38. He was the first magistrate of Rome who governed the town, and as Cic. says (Off. 1, 35), *tanto opere apud nostros iustitia culta est ut ei qui civitates aut nationes devictas bello in fidem recepissent, earum patroni essent more maiorum.*

L. Cornelius Balbus came to Rome at the close of the wars, and being ambitious and pushing, as well as a thorough man of the world, he cultivated assiduously and to a great extent secured the friendship of the leading Romans connected with all the political parties. He increased his intimacy with Pompeius, from whom he received rich presents, among them a landed estate[1]. Through the influence of Pompeius, Balbus was adopted by Theophanes of Mitylene, a Greek historian and intimate friend of the general, by whom, like Balbus, he had been enfranchised[2]. Theophanes had apparently been in Spain with Pompeius and had contracted some alliance with the family of Balbus. When this speech was delivered Theophanes had died, and his adopted son had inherited from him a large property[3].

In the year 70 there was a census, when Balbus was probably enrolled as a citizen, but only in one of the *tribus urbanae*. As the *tribus rusticae* ranked much higher in public esteem, Balbus took care to secure admission to one of the most aristocratic, the *tribus Clustumina* (or *Crustumina*). This he was enabled to do by the provisions of the Roman criminal law, which assigned various rewards to those prosecutors who procured the conviction of certain classes of offenders. These rewards seem to have depended partly on the rank of the prosecutor, partly on that of the criminal. Those who were not citizens already became so, those who were citizens might attain a higher rank. Senators might rise to a higher grade in the senate, while non-senators might gain admission to a more important tribe, provided that the offender were in that tribe. This was the case with Balbus, though we know nothing of the criminal at whose expense he obtained advancement[4].

In the early years of his residence at Rome, Balbus became closely allied with Caesar, who took him to Spain as *praefectus fabrum* (chief of the engineers), when he went there himself to govern *Hispania ulterior* as propraetor (61 B.C.). When Caesar became proconsul of Gaul in 58, Balbus was again his *praefectus*

[1] Cf. Att. 7, 7, 6 with 9, 13, 8.
[2] Arch. 24; see below, p. 13 n.
[3] See § 57, n.
[4] Cf. nn. on § 57, also on § 54; Zumpt, Criminal Process d. Röm. Rep. pp. 54—64.

fabrum[1]. The connexion of Balbus with Caesar was of the utmost advantage to Gades[2]. A new quarter was laid out by Balbus and Caesar, which soon rivalled in importance the old city[3]. The political and legal system there underwent a thorough reform[4]. The powerful influence of Caesar at Rome was also productive of great benefit to the Gaditanes, and in 49 B.C. they received from him the gift of the Roman *civitas*[5]. At some time anterior to the speech of Cicero, the Gaditanes, in gratitude for all the advantages they had received from or through Balbus, appointed him their *patronus* at Rome[6].

As early as 60 B.C. Balbus had become the private secretary of Caesar, and his confidential political agent, a character which he retained till his patron's death. He had a great share in the negotiations which resulted in the first triumvirate[7], and during the campaigns in Gaul Caesar often sent him to Rome to manage political affairs.

It was to be expected that a naturalised foreigner who was so prominently before the public at Rome, who was high in the favour of all the members of the triumvirate, and who was rapidly rising in honour and in wealth, should find many enemies. There were not a few among the leading politicians of the day who bore him no good will. Their hostility led in 56 B.C. to the prosecution which produced the speech now before us. The circumstances and merits of the case will be examined later. Although the history of Balbus in the time subsequent to the prosecution does not closely concern us, it will be convenient to know its leading facts.

During the remainder of Caesar's wars in Gaul Balbus continued for the most part with him, but occasionally visited Rome. He endeavoured to pay the debt he owed to Cicero for his defence, by drawing the orator nearer to Caesar, and also by advancing the fortunes of Quintus, the orator's brother, who was then on

[1] § 63.

[2] § 43. Caesar was already well acquainted with Gades, having been there as quaestor in 68, when he had been chiefly employed as judge in the courts. See Suet. Iul. 7, Vell. 2, 43, 3, Bell. Hisp. 42.

[3] Dio Cassius 48, 32, Strabo 169.

[4] n. on § 43.

[5] Columella 8, 16. The Gaditani are called by Plin. N. H. 4, 119 *Augustani urbe Iulia Gaditanorum.*

[6] § 41.

[7] Att. 2, 3, 3.

Caesar's staff in Gaul[1]. Balbus had his hands constantly full of Caesar's business. In 54 B.C. he made two journeys between Rome and Gaul[2]. About this time the friendly feeling between Cicero and Caesar was greater than it had ever been, and it was probably in this year that Caesar lent the orator a large sum of money, which remained unpaid for many years, and caused the borrower much trouble[3]. With this business Balbus was mixed up[4]. When matters began to drift towards civil war Balbus frequently appeared on the scene as Caesar's agent. In 51 he was at Rome and expostulated with Scipio, Pompeius' father-in-law, who had broached a proposal for depriving Caesar of his command in Gaul[5]. Again in 50 Balbus was negotiating with Pompeius and Scipio on behalf of Caesar[6]. In the same year he tried to remove the dissensions between the tribune Curio and the consuls, which had prevented the *supplicatio* in honour of Cicero's military achievements in Cilicia from being carried out, though actually decreed by the Senate[7]. At the end of 50, when war had become inevitable, Balbus wrote "*blandas litteras*" to Cicero, in the hope of securing him for Caesar's side[8]. When the war actually broke out Balbus left Caesar's camp for Rome, partly because he could do more for Caesar's interests there than in the army, partly from a reluctance to fight against his patron Pompeius and the other consul of the year, a Lentulus, to whom also he was indebted[9]. At Rome Balbus looked after the private interests of Lentulus as well as those of Caesar, and pursued his old policy of standing well with all parties. At this time he wrote frequent letters to Cicero, urging him to make peace between Caesar and Pompeius, more with the view of preventing Cicero from joining Pompeius than in the expectation that any action in favour of peace would be possible. Some of these letters have been preserved. Cicero felt that Balbus

[1] Ad Qu. Fr. 3, 1, 9.
[2] See Ad Qu. Fr. 2, 12, 4; Fam. 7, 5, 2; ib. 6, 1; ib. 7, 1; ib. 9, 2; ib. 16, 3; ib. 18, 2.
[3] Att. 5, 1, 2; ib. 10, 4.
[4] See the comical passage in Att. 7, 3, 11.
[5] Fam. 8, 9, 5.
[6] Att. 7, 4, 2.
[7] Fam. 8, 11, 2.
[8] Att. 7, 3, 11.
[9] Att. 9, 7B, 2, a letter from Balbus to Cicero.

was merely mocking him (so he puts it) in asking him to step in between the combatants[1], yet he says that the letters and conversation of Balbus really kept him from seeing until it was too late that it was his duty openly to side with Pompeius[2].

When the Pompeian party had abandoned Italy to Caesar, Balbus did his best to obtain further honours by the aid of his powerful patron. He coveted a seat in the Senate, and probably obtained it at this time. Cicero calls it a monstrosity that an alien born should think of becoming a Roman senator[3]. During the dictatorship, Balbus and Oppius were Caesar's agents, with *carte blanche* to act for him in all his concerns[4]; Caesar also took counsel with Balbus on his most important public affairs[5]. After Cicero returned to Rome, at the end of the Alexandrine war, he was obliged to go to Balbus as a suitor for Caesar's good-will. A bitter trial it must have been for the great orator to ask favours of the Gaditane, now become "one of the tyrants[6]". Yet Balbus remained on friendly terms with Cicero till the death of the latter. When Caesar was murdered, Balbus left Rome. From the first public appearance of Octavianus he gave that commander his support[7]. In 43 or 42 he became praetor, and in 40 gained the consulship, being the first man of alien birth who attained that honour[8]. The date of Balbus' death is not known. He left by his will a legacy of 25 *denarii* to every citizen of Rome[9]. The eighth book of the *bellum Gallicum* is dedicated to him, and he left behind him a diary containing memorials of his own life and that of Caesar[10].

b. The connexion of Cicero with the case.

At the time of his recall from exile (57 B.C.) Cicero had taken especial pains to stand well with all the members of the first triumvirate—Caesar, Pompeius and Crassus. The first of

[1] Att. 8, 15, 3.
[2] Att. 9, 5, 3.
[3] Att. 10, 11, 4.
[4] Fam. 6. 8, 1. Tac. Ann. 12, 60.
[5] Fam. 6, 18, 1; 9, 17, 1.
[6] Fam. 9, 19, 1.
[7] Att. 14, 10, 3.
[8] Plin. 7, 136. The statement in Val. Max. 2, 5, 11 that Balbus had held no office before his consulship, is probably incorrect.
[9] Dio Cassius 47, 32.
[10] Suet. Iul. 81.

the three had been his enemy during the events that led to the exile. Cicero now took every opportunity of shewing that he bore no ill-will. Even in the speech in defence of Sestius, spoken in 56, he deals only in the gentlest of reproaches, and assumes that the misunderstanding between himself and Caesar was due to misrepresentations of facts made by interested parties. In the same year Cicero pronounced his splendid oration entitled *De Provinciis Consularibus*, a large part of which is occupied with eulogy of Caesar's conquests in Gaul[1].

With the conduct of Pompeius Cicero had every reason to be dissatisfied. He had solemnly declared that not a hair of Cicero's head should be harmed by Clodius, and had then coolly abandoned him. But Cicero was determined to forget this, though Cato did his best to keep alive the recollection, and by violent speeches in the Senate to sow dissensions between the orator and Pompeius. Cicero chose rather to dwell on the services the triumvir had rendered him in securing his recall from exile.

As regards Crassus, Cicero had no reason whatever for gratitude to him. That thoroughly contemptible politician was particularly fond of coquetting with Clodius and his crew, and had moreover in earlier years opposed Cicero at every turn. Caesar had had great trouble to keep Pompeius and Crassus from quarrelling; in 56 he had met them in Ravenna and had arranged the misunderstanding between them. Cicero therefore, besides furthering his own interests by attaching Crassus to himself, could please Caesar and Pompeius by acting with him and eulogising him as he did in his speech for Balbus. It will be seen from what has been said that Cicero's defence of Balbus must be regarded as a bid for the favour of the triumvirate.

c. Circumstances of the case.

The attack on Balbus was partly directed against him personally, and partly through him against the triumvirs, whose trusted friend he was. The case has therefore in this respect great resemblance with that of Archias, where Lucullus was the

[1] Cf. § 6.

real object of attack. The law-courts at Rome were freely used for the purpose of annoying, directly or indirectly, political enemies[1]. In this case there were no doubt powerful political personages behind the nominal prosecutor.

We are not even in possession of this person's name. He was a Gaditane, who had somehow attained the Roman franchise; it has been conjectured that he received it from Pompeius as Balbus did, but in that case Cicero would surely have mentioned the circumstance. Owing to a conviction in a criminal trial, he had suffered deprivation of civil rights[2]. One method of rehabilitation was by a successful prosecution, when the prosecutor regained the privileges he had lost[3]. This was no doubt the bait that lured the prosecutor, and made him a ready tool in the hands of the enemies of Balbus.

In order to estimate the strength of Balbus' case, it is necessary to consider the *lex Gellia Cornelia*, under which Pompeius acted in enfranchising Balbus[4]. The law was carried in 72 B.C. by the consuls L. Gellius Publicola and Cn. Cornelius Lentulus Clodianus, in accordance with a decree of the Senate. It empowered Pompeius, acting under the advice of his *consilium*[5], to confer the Roman *civitas* on individuals (*singillatim*), not on communities[6]. It must be noticed that during the whole of the Republican period, the power of extending the Roman burgess body lay ultimately with the burgesses themselves, in *comitia* assembled[7]. In the last three centuries of the Republic, at least, the principle stood firm that this privilege belonged not to the *comitia centuriata* but to the *comitia tributa*, because membership of a tribe and citizenship were convertible terms. A *plebiscitum*

[1] See my ed. of Arch. Introd. p. 11.

[2] Pro Balbo § 32.

[3] Zumpt, Criminal Process, p. 59.

[4] Plin. N. H. 5, 36, who says L. Corn. Balbus *minor* was enfranchised along with his uncle. See, however, below, p. 13.

[5] See n. on § 11, l. 29.

[6] § 19.

[7] The idea that the consuls, censors, or senate exercised in the earlier Republican period the power of bestowing the *civitas* is inherently improbable, and unsupported by evidence. Livy (6, 26, 8 and 8, 14, 10) mentions the senate as enfranchising the Tusculans and the Latin towns, but he very frequently omits to mention the ratification by the *comitia* in cases where it is admitted to have been indispensable.

therefore was necessary whether whole communities or individuals were enfranchised. The enfranchisement of communities does not much concern the case of Balbus, but it is advisable to consider the chief instances of individual enfranchisement which occur in the Republican history of Rome.

It was a truly fatal blunder which the Roman government committed during nearly the whole of the Republican period, in allowing the burgess body to be freely recruited from the slave population of the city, by manumission, while the doors of the constitution were almost entirely shut against foreigners of rank and respectability. This policy contributed more than anything else to the degradation of the *comitia*. To aliens of position and character the franchise was doled out by driblets, while slaves swept from all quarters of the world, and debased by generations of servitude, passed into the burgess body in a never-ceasing stream.

The first recorded instance of the enfranchisement of an individual by special act is that of L. Mamilius, dictator of Tusculum, who had rendered service to Rome (458 B.C.)[1]. Similar instances must have occurred, the memory of which has been lost; there are many persons whom we know to have received the citizenship though the time and manner of its bestowal are unrecorded. The next case of which we hear is that of the Campanian Knights, who became citizens by vote of the *comitia* when Capua revolted in 215 B.C.[2]. In 211 Sosis a Syracusan, and Moericus a Spaniard[3], and in 210 Muttines a Carthaginian were awarded the *civitas* for their services[4]. In 186 Fecennia Hispala, a freedwoman, received the rights of an *ingenua* on account of the information she gave concerning the Bacchanalian excesses of that year[5]. In the speech for Balbus[6], Cicero mentions an act for giving the franchise to a Greek priestess of Ceres, born at Velia, and intimates that it was only one of a number of similar enactments.

There was an old and somewhat loose practice of allowing the commissioners for carrying out colonisation or agrarian land

[1] Liv. 3, 29, 6.
[2] Liv. 23, 31.
[3] Liv. 26, 21, 10.
[4] Liv. 27, 5, 7. The case is also mentioned in a fragment of Varro.
[5] Liv. 39, 19, 5. [6] § 55.

divisions, to make a very limited number of Roman citizens. Marius received such a power under the agrarian law of Saturninus[1].

At the time of the civil wars appears the custom whereby Roman commanders conferred the *civitas* on foreigners who had aided the military operations. In theory the commanders had no right to make such a gift without some such authorisation as that afforded to Pompeius by the *lex Gellia Cornelia*. In practice, the formality of a law seems to have been often neglected. Marius enfranchised of his own motion, besides scattered individuals[2], two cohorts of allied troops (Plutarch says 1000 men) who had fought bravely under him against the Gauls[3]. We know that his action was attacked as illegal, and it is not recorded that even an *ex post facto* authorisation was given by the *comitia*. Cicero mentions in his speech for Balbus six commanders (exclusive of Cn. Pompeius), Marius among them, who had bestowed the citizenship on various persons, and in no one instance does he mention that the proceeding was founded on a statute. That his omission to mention the statute cannot be explained by supposing him to have regarded it as a matter of course, the facts about Marius (which must have been within Cicero's own knowledge) clearly prove. It is probable that Theophanes of Mitylene, the historian of Pompeius' wars, was enfranchised by him without definite authority, and also some other persons mentioned by Cicero as owing their enfranchisement to Pompeius[4]. When we put side by side with these facts Cicero's statement that no one who had passed into the burgess body by favour of a Roman general, had ever been ejected from

[1] § 48. [2] §§ 46, 48.
[3] § Plutarch, Mar. 28.
[4] I conclude this from the fact that nowhere in the Speech Pro Balbo does Cicero mention the name of Theophanes among those enfranchised under the *lex Gellia Cornelia*. In Pro Archia (§ 24) where Theophanes is mentioned, Cicero's words point to the same conclusion. It is singular that Cic. has not mentioned Balbus *minor*, the nephew of our Balbus, who received the *civitas* from Pompeius (Plin. N. H. 5, 36). Had he received it under the *lex Gellia Cornelia* Cic. could scarcely have failed to mention him. Some of the instances quoted in § 50 (cf. *ex bello Africano*) must have occurred before that law was passed.

it by judgment of a court[1], we see that the position of Balbus, *prima facie*, was particularly strong.

I have already sketched generally, in the Introduction to the speech for Archias[2], the position held by the alien act of Papius (on which this indictment was founded) among similar Roman statutes, and have also indicated the kind of procedure adopted under it. I only need add here that the *lex Papia* was probably passed chiefly for the purpose of weakening Caesar and the democrats, and to drive from Rome their numerous foreign supporters (particularly the transpadane Gauls), who swelled the ranks of the *infima plebs* or city rabble.

Along with Cicero Pompeius and Crassus spoke for the defence. Cicero says of the speech of Crassus that it was able and accurate[3]. We have a description by Cicero of the oratory of Crassus[4]. His abilities were narrow, his education narrower, but the interest he took in his cases, and the toil and labour he spent upon them, made him for many years one of the first advocates at Rome. His language was pure and dignified, his arrangement careful, but he used none of the flowers or ornaments of speech. His tone was earnest, but his delivery monotonous. The speech of Pompeius contained a glowing eulogy of Cicero[5]. This accounts partly for the extravagant praise which Cicero bestows on its learning and adornments[6]. Pompeius did not rank very high among the speakers of his day. Cicero in the "Brutus"[7] merely says of him that he might have attained higher excellence as an orator had not his ambition led him into other paths; that there was breadth in his treatment of cases; that he was skilled in clearly seeing the issues; that his voice was brilliant and his gesture dignified. It is interesting to observe that when Cicero was engaged in a defence with other advocates, he always spoke last by common consent[8]. This was due, he says himself, to his power of making a pathetic and moving appeal to a jury[9]. We know that in defending

[1] § 53.
[2] p. 12.
[3] § 17.
[4] Brut. 233.
[5] De Leg. 2, 5.
[6] §§ 2, 17 *etc.*
[7] § 239.
[8] Orat. 130, Brut. 190.
[9] Orat. l. l.

Sulla, Flaccus and Sestius, before the case of Balbus, and Milo afterwards, Cicero spoke after the other advocates.

We know the name neither of the prosecutor nor of the judge who tried the case. It undoubtedly ended in an acquittal of Balbus.

d. Analysis of the speech and comments on the arguments it contains.

§§ 1—16. Introduction, almost entirely devoted to praise of Pompeius. In §§ 1—4 Cicero expresses his inability to rival the speeches of his predecessors, especially that of Pompeius, which had exhausted the subject. At § 5 begins a theme which is harped upon repeatedly. *Anything which Pompeius has done must needs be lawful or else he would not have done it.* In §§ 6, 7 Cicero paints glowingly the services of Balbus, to shew that he deserved the citizenship, and to excite sympathy with him when he has to bear the brunt of an attack which really ought to be directed against Pompeius. In §§ 9, 10 the career of Pompeius is sketched. It is absurd to suppose that a man of such achievements would do anything illegal. §§ 11, 12. "We no more ought to examine into the legality of Pompeius' actions than did our fathers into the accuracy of Metellus' accounts, or the Athenians into the trustworthiness of Xenocrates' words. § 13. It is monstrous to say that Pompeius would violate a treaty knowingly. § 14. Well, says the prosecutor, he did it ignorantly. But ignorance, when a man is in such a position, is even a more serious fault, than conscious guilt. § 15. It happens that Pompeius is especially skilled in the treaty relations of Rome with foreign states; he must have learned thoroughly by experience abroad what we learn imperfectly from books at home. § 16. Were Pompeius one of the old heroes of Rome, and were he now accused in our presence of breaking treaty obligations, we should scout the charge as ridiculous."

Up to this point there is a great deal of declamation, and very little argument. All that has been done is to excite sympathy for Balbus, and to establish strongly the antecedent improbability of illegal action on the part of Pompeius.

§ 17. The impossibility of saying anything new after the speeches of Crassus and Pompeius is again insisted upon. §§ 18, 19. The prosecution is attributed to envy at the brilliant social success of Balbus, which envy the jury assuredly will not share.

The way is now prepared for the favourable reception by the jury of the legal arguments.

§§ 19—22. Rebutment of the prosecutor's argument, that *populi foederati* were excepted from the operation of the *lex Gellia Cornelia* unless they had formally adopted it themselves.

There is no doubt that Cicero has unfairly represented the prosecutor's contention. He had pointed to the undoubted fact, which Cicero himself admits[1], that whenever *communities* by act of the *comitia* had been enfranchised, the enfranchisement had not taken effect until the communities themselves had adopted the act. The fault in his argument, which Cicero does not state so clearly as he might, was that he applied to the enfranchisement of individuals a principle only applicable to the enfranchisement of whole communities. When the *status* of a whole community was to be changed, its assent was necessary, but to suppose that no single individual from the community could change his *status* to that of a Roman citizen without its assent, was absurd.

The way Cicero puts it is this, that the adoption of Roman laws by allied states is a boon allowed them by the Roman people, but a boon which could not be permitted to restrict in any way the power of the government to pay by the citizenship for any special services conferred on it by individual members of the allied states.

In the very important passage now under consideration the different classes of Roman subjects are frequently mentioned—*socii*, *liberi populi*, *foederati*, *Latini*, *stipendiarii*. It is necessary to say a few words about these terms.

The subject populations of the Roman empire under the Republic may be roughly divided into two classes (*a*) those

[1] § 21.

whose relations with the Roman government were regulated by a definite compact; (*b*) those over whom the Romans exercised an authority not restricted by any treaty obligations. The latter class was properly denoted by the phrase *peregrini dediticii*, and may be at once dismissed as not concerning us here. For the other class the most general term is *socii*. The privileges possessed by the allied communities were most diverse, depending entirely on the provisions of the treaties concluded when they first came under the influence of Rome. The *Latini* were merely a specially privileged class of *socii*, but the phrase *foederati populi* was generally used so as to exclude the *Latini*, though Cicero in the present speech, using it in the strict sense, makes it include the *socii Latini nominis*[1].

The Romans broadly distinguished *foedera*[2] as favourable and unfavourable (*aequa* and *iniqua*), but the terms are incapable of accurate definition. If the obligations undertaken by Rome were as great as, or greater than, those undertaken by the allied state, the treaty was regarded as favourable. If the compact contained clauses humiliating in any way to the *civitas foederata*, the *foedus* was *iniquum*. The treaty with Gades was distinctly an *iniquum foedus*, for its first clause was humiliating to the Gaditanes[3]. If the treaty contained stipulations for the permanent payment of tribute to Rome, in money or kind, the tributary state was *stipendiaria*, and its inhabitants *stipendiarii*. These terms, however, are loosely used, and Cicero speaks sometimes as though a state which was *foederata* could not be *stipendiaria*[4].

All populations not directly governed from Rome, but possessing governments of their own, partly independent of Roman control, and laws of their own, were in a sense *liberi*. But the terms *liberi populi*, *liberae civitates* were, at the end of the Republic, particularly applied to those communities which had no abiding connexion with Rome—for example the Cenomani and Helvetii mentioned in this speech[5].

[1] § 54.

[2] For the formalities required to constitute a *foedus* see n. on § 15, l. 33.

[3] nn. on §§ 35, 36.

[4] § 24.

[5] § 32. In § 27 Cic. uses *liberi populi* as equivalent to *socii*.

§§ 22—26. Cicero now proceeds to shew the unreasonableness of the restriction contended for by the prosecutor, which would deprive Rome of the aid of individuals from the allied states, and prevent the individuals themselves from gaining the Roman citizenship, though it was open to inferior classes of Roman subjects, even down to the slave population. "If the Gaditanes by a formal decree forbade their citizens to serve Rome at their own private risk, the Roman government would resent it. What the prosecutor contends for is practically the same thing, since he would place it in the power of the Gaditanes to stand between those who volunteer for the Roman service, and their proper reward."

§§ 27—31. These sections expound the public policy of Rome with regard to change of country. The statements of Cicero on this subject are important. He maintains that Rome always allowed to her own citizens the most absolute freedom to migrate and acquire citizenship in another state, and always assumed the unlimited right of foreigners to acquire the Roman franchise if she chose to bestow it. The only difference between Roman and foreign practice in this matter was that no one could be a citizen of Rome and of other cities at the same time, while foreigners who were not Roman citizens could be on the burgess-rolls of any number of cities.

§§ 32—37. Cicero now rebuts some other arguments of his opponent. Because some treaties contained a stipulation forbidding Rome to receive as citizens members of the contracting nations, the prosecutor argued that such a restriction must be assumed to apply to the Gaditane treaty, though not therein expressed. Cicero points out that such restrictions, being rare exceptions, only prove the rule that Rome is free to confer the franchise on whom she pleases. He even contends that any such treaty stipulation would be overridden by the *lex Gellia Cornelia*. He here treads on rather dangerous ground, for his argument really involves the assumption that the resolutions of the *comitia* ought to override all treaty obligations. He next turns to another of the prosecutor's arguments. The *lex Gellia Cornelia* contained a formal clause which provided that none of its enactments should be valid as against engagements in their

nature *sacrosancta*[1]. It is very difficult to see why such a clause was inserted. Probably, like other clauses in Roman enactments, it had become a mere empty form[2]. Cicero has no difficulty in shewing that even if the clause be taken literally, it does not apply to the *foedus* of Gades, which was informal and never sanctioned by the Roman people, though in practice allowed validity. He then shews that even if the Gaditane treaty had been formally ratified there was no clause in it forbidding the Romans to enfranchise a Gaditane[3]. The provisions of the treaty are then examined, though in all probability not completely[4], and an erroneous interpretation put by the prosecutor upon one of the words is refuted.

§§ 38—44. "There is no need to argue the question whether the treaty with Gades prevents Rome from enfranchising Balbus, for the Gaditanes themselves, who alone would have a right to complain if that were the case, are on the side of Balbus. The people of Gades are doing all they can to get the principle established that it is lawful for any individual among them to serve Rome and win the citizenship. They fine the prosecutor, they send a deputation to speak for Balbus, who has done so much for them."

§§ 45—51. "The precedents all support the action of Pompeius in the case of Balbus. Marius and many other generals have bestowed the citizenship on persons belonging to *civitates foederatae*, without their right to do so being questioned[5]."

§§ 52—55. "The action of the Roman government and courts in particular instances has been uniformly in favour of such bestowal of the franchise. No one who received the boon from a Roman general has ever been deprived of it by verdict of a court. Rome was bound by a *foedus* with the Latins, yet many Latins by successful prosecutions became Roman citizens[6]; it is absurd to suppose that our ancestors would deny to the warrior

[1] For the meaning of the term, see n. on § 33, l. 9.

[2] Cic. implies this in the last words of § 34. The *foedus* of Saguntum was indubitably *sacrosanctum*, yet Pompeius enfranchised, probably under the *lex Gellia Cornelia*, some Saguntines (§ 50).

[3] Cic. seems here to have forgotten his argument above, that no such clause could bind the *comitia*.

[4] n. on § 35, l. 17.

[5] See above, p. 13.

[6] See above, p. 6.

what they gave to the pleader. The laws under which these Latins became *cives* were never adopted by the Latin towns, and even under the *lex Licinia Mucia*, whereby those who had falsely assumed the citizenship were ejected, these Latins were left unmolested. The priestesses of Ceres also were always Greeks from treaty-bound states, who were enfranchised by special act."

§§ 56—65. Cicero now declares that so long a speech has been needful, not for the purpose of convincing the jury, but to break the spirit of all those who for various reasons are envious of Balbus. Those who are merely envious of his personal success are not difficult to quiet, since he has no real enemies. Those who are attacking him most bitterly, are attacking Pompeius through him, and if well advised will abandon such an unequal contest. Political enmities ought not to be everlasting. In his own person he has abandoned the enmity once existing between himself and Caesar.

The defence made by Cicero is pretty complete, though, as we have seen, there are some unsatisfactory points about it. As he has somewhat obscured the lines of the prosecutor's speech, I will conclude by restoring these so far as is possible. (1) Pompeius had no right to enfranchise Balbus, since the *lex Gellia Cornelia* had never been adopted by Gades, as other enfranchising laws, such as the *lex Iulia*, were by the states they affected. (2) The law itself contained a provision that public obligations of a sacrosanct character were not to be affected by it. Now a *foedus* is essentially a sacrosanct obligation. (3) Many *foedera* contain an express provision that no citizen of the *foederati populi* concerned in them should become a citizen of Rome. These lines were filled out with the usual amount of personal abuse, in which the hunt of Balbus after wealth and social position, his adoption by Theophanes, his grand mansion, his passage into the *tribus Clustumina* by the harsh method of a prosecution were placed in an invidious light.

M. TULLI CICERONIS

PRO

L. CORNELIO BALBO

ORATIO.

I. Si auctoritates patronorum in iudiciis valent, ab am- 1
plissimis L. Corneli causa defensa est; si usus, a peritissimis;
si ingenia, ab eloquentissimis; si studia, ab amicissimis et cum
beneficiis cum L. Cornelio tum maxima familiaritate con-
iunctis. Quae sunt igitur meae partes? Auctoritatis tantae,
quantam vos in me esse voluistis, usus mediocris, ingeni
minime voluntati paris. Nam ceteris, a quibus est defensus,
hunc debere plurimum video: ego quantum ei debeam, alio
loco: principio orationis hoc pono, me omnibus, qui amici 2
fuerint saluti et dignitati meae, si minus referenda gratia
satis facere potuerim, praedicanda et habenda certe satis
esse facturum. Quae fuerit hesterno die Cn. Pompei gravi-
tas in dicendo, iudices, quae facultas, quae copia, non
opinione tacita vestrorum animorum, sed perspicua admi-
ratione declarari videbatur. Nihil enim umquam audivi
quod mihi de iure subtilius dici videretur, nihil memoria
maiore de exemplis, nihil peritius de foederibus, nihil illus-
triore auctoritate de bellis, nihil de re publica gravius, nihil
de ipso modestius, nihil de causa et crimine ornatius; ut 3
mihi iam verum videatur illud esse, quod non nulli litteris ac
studiis doctrinae dediti quasi quiddam incredibile dicere pu-
tabantur, ei qui omnis animo virtutes penitus comprehen-
disset, omnia quae faceret recte cadere. Quae enim in L.

Crasso potuit, homine nato ad dicendi singularem quandam facultatem, si hanc causam ageret, maior esse ubertas varietas copia, quam fuit in eo qui tantum potuit impertire huic studio temporis, quantum ipse a pueritia usque ad hanc
4 aetatem a continuis bellis et victoriis conquievit? Quo mihi difficilior est hic extremus perorandi locus. Etenim ei succedo orationi, quae non praetervecta sit auris vestras, sed in animis omnium penitus insederit, ut plus voluptatis ex recordatione illius orationis, quam non modo ex mea, sed cuiusquam oratione capere possitis. II. Sed mos est gerendus non modo Cornelio, cuius ego voluntati in eius periculis nullo modo deesse possum, sed etiam Cn. Pompeio, qui sui facti, sui iudici, sui benefici voluit me esse, ut apud eosdem vos, iudices, nuper in alia causa fuerim, et praedicatorem et actorem.

5 Ac mihi quidem hoc dignum re publica videtur, hoc deberi huius excellentis viri praestantissimae gloriae, hoc proprium esse vestri offici, hoc satis esse causae, ut, quod fecisse Cn. Pompeium constet, id omnes ei licuisse concedant. Nam verius nihil est, quam quod hesterno die dixit ipse, ita L. Cornelium de fortunis omnibus dimicare, ut nullius in delicti crimen vocaretur. Non enim furatus esse civitatem, non genus suum ementitus, non in aliquo impudenti mendacio delituisse, non irrepsisse in censum dicitur: unum obicitur, natum esse Gadibus, quod negat nemo. Cetera accusator fatetur, hunc in Hispania durissimo bello cum Q. Metello, cum C. Memmio et in classe et in exercitu fuisse; ut Pompeius in Hispaniam venerit Memmiumque habere quaestorem coeperit, numquam a Memmio discessisse, Karthagine esse opsessum, acerrimis illis proeliis et maximis, Sucronensi et Turiensi, interfuisse, cum Pompeio ad extre-
6 mum belli tempus fuisse. Haec sunt propria Corneli: pietas in rem publicam nostram, labor assiduitas, dimicatio virtus

digna summo imperatore, spes pro periculis praemiorum. Praemia quidem ipsa non sunt in eius facto qui adeptus est, sed in eius qui dedit: III. donatus est igitur ob eas causas a Cn. Pompeio civitate. Id accusator non negat, sed reprehendit, ut in Cornelio causa ipsius probetur, poena quaeratur, in Pompeio causa laedatur, poena sit nulla nisi famae: sic innocentissimi hominis fortunas, praestantissimi imperatoris factum condemnari volunt. Ergo in iudicium caput Corneli, factum Pompei vocatur. Hunc enim in ea civitate, in qua est natus, honestissimo loco natum esse concedis et ab ineunte aetate relictis rebus suis omnibus, in nostris bellis nostris cum imperatoribus esse versatum, nullius laboris, nullius opsessionis, nullius proeli expertem fuisse. Haec sunt omnia cum plena laudis tum propria Corneli, nec in eis rebus crimen est ullum. Ubi igitur est crimen? 7
Quod eum Pompeius civitate donavit. Huius crimen? Minime, nisi honos ignominia putanda est. Cuius igitur? Re vera nullius: actione accusatoris, eius unius qui donavit; qui si adductus gratia minus idoneum hominem praemio affecisset, quin etiam si virum bonum, sed non ita meritum; si denique aliquid non contra ac liceret factum diceretur, sed contra atque oporteret, tamen esset omnis eius modi reprehensio a vobis, iudices, repudianda. Nunc vero quid dici- 8
tur? Quid ait accusator? Fecisse Pompeium quod ei facere non licuerit: quod gravius est quam si id factum ab eo diceret, quod non oportuisset; est enim aliquid quod non oporteat, etiam si licet; quidquid vero non licet, certe non oportet.

IV. Hic ego nunc cuncter * * * * * * Quid 9
enim abest huic homini, quod si adesset, iure haec ei tribui et concedi putaremus? Ususne rerum? Qui pueritiae tempus extremum principium habuit bellorum atque imperiorum maximorum? Cuius plerique aequales minus saepe castra

viderunt quam hic triumphavit? Qui tot habet triumphos, quot orae sunt partesque terrarum, tot victorias bellicas, quot sunt in rerum natura genera bellorum? An ingenium? Cui etiam ipsi casus eventusque rerum non duces, sed comites consiliorum fuerunt? In quo uno ita summa fortuna cum summa virtute certavit, ut omnium iudicio plus homini quam deae tribueretur? An pudor, an integritas, an religio in eo, an diligentia umquam requisita est? Quem provinciae nostrae, quem liberi populi, quem reges, quem ultimae gentes castiorem moderatiorem sanctiorem non modo viderunt, sed aut sperando umquam aut optando cogitaverunt?
10 Quid dicam de auctoritate? Quae tanta est, quanta in his tantis virtutibus ac laudibus esse debet. Cui senatus populusque Romanus amplissimae dignitatis praemia dedit non postulanti, imperia vero etiam recusanti, huius de facto, iudices, ita quaeri, ut id agatur, licueritne ei facere, quod fecit, an vero, non dicam, non licuerit, sed nefas fuerit—contra foedus enim, id est contra populi Romani religionem et fidem fecisse dicitur—non turpe populo Romano, nonne
11 vobis? V. Audivi hoc de parente meo puer: cum Q. Metellus Luci filius causam de pecuniis repetundis diceret, ille ille vir, cui patriae salus dulcior quam conspectus fuit, qui de civitate decedere quam de sententia maluit—hoc igitur causam dicente, cum ipsius tabulae circumferrentur inspiciendi nominis causa, fuisse iudicem ex illis equitibus Romanis, gravissimis viris, neminem quin removeret oculos et se totum averteret, ne forte, quod ille in tabulas publicas rettulisset, dubitasse quisquam, verumne an falsum esset videretur: nos Cn. Pompei decretum de consili sententia pronuntiatum recognoscemus? Cum legibus conferemus, cum foederibus? Omnia acerbissima diligentia perpendemus?
12 Athenis aiunt, cum quidam apud eos, qui sancte graviterque vixisset, testimonium publice dixisset et, ut mos Graecorum

est, iurandi causa ad aras accederet, una voce omnes iudices ne is iuraret reclamasse. Graeci homines spectati viri noluerunt religione videri potius quam veritate fidem esse constrictam: nos etiam in ipsa religione et legum et foederum conservanda qualis fuerit Cn. Pompeius dubitabimus? Utrum 13 enim scientem voltis contra foedera fecisse an inscientem? Si scientem—o nomen nostri imperi! O populi Romani excellens dignitas! O Cn. Pompei sic late longeque diffusa laus, ut eius gloriae domicilium communis imperi finibus terminetur! O nationes urbes populi, reges tetrarchae tyranni testes Cn. Pompei non solum virtutis in bello, sed etiam religionis in pace! Vos denique, mutae regiones, imploro, et sola terrarum ultimarum; vos, maria portus, insulae litora! Quae est enim ora, quae sedes, qui locus in quo non exstent huius cum fortitudinis tum vero humanitatis, cum animi tum consili impressa vestigia? Hunc quisquam incredibili quadam atque inaudita gravitate virtute constantia praeditum foedera scientem neglexisse violasse rupisse dicere audebit? VI. Gratificatur mihi gestu accusator: 14 inscientem Cn. Pompeium fecisse significat. Quasi vero levioris sit, cum in tanta re publica versere et maximis negotiis praesis, facere aliquid quod scias non licere, quam omnino non scire quid liceat. Etenim utrum qui in Hispania bellum acerrimum et maximum gesserat quo iure Gaditana civitas esset nesciebat, an, cum ius illius populi nosset, interpretationem foederis non tenebat? Id igitur quisquam Cn. Pompeium ignorasse dicere audebit, quod mediocres homines, quod nullo usu, nullo studio praediti militari, quod librarioli denique scire profiteantur? Equidem contra ex- 15 istimo, iudices, cum in omni genere ac varietate artium, etiam illarum, quae sine summo otio non facile discuntur, Cn. Pompeius excellat, singularem quandam laudem eius praestabilem esse scientiam in foederibus pactionibus con-

dicionibus populorum regum exterarum nationum, in universo denique belli iure atque pacis: nisi forte ea quae nos libri docent in umbra atque otio, ea Cn. Pompeium neque cum requiesceret litterae, neque cum rem gereret regiones ipsae docere potuerunt. Atque, ut ego sentio, iudices, causa dicta est. Temporum magis ego nunc vitiis quam genere iudici plura dicam: est enim haec saeculi quaedam macula atque labes, virtuti invidere, velle ipsum florem dig-
16 nitatis infringere. Etenim si Cn. Pompeius abhinc annos quingentos fuisset, is vir, a quo senatus adulescentulo atque equite Romano saepe communi saluti auxilium expetisset, cuius res gestae omnis gentis cum clarissima victoria terra marique peragrassent, cuius tres triumphi testes essent totum orbem terrarum nostro imperio teneri, quem populus Romanus inauditis honoribus singularibusque decorasset, si nunc apud nos id quod is fecisset, contra foedus factum diceretur, quis audiret? Nemo profecto. Mors enim exstinxisset invidiam, res eius gestae sempiterni nominis gloria niterent. Cuius igitur audita virtus dubitationi locum non daret, huius visa atque perspecta optrectatorum voce laedetur?

17 VII. Omittam igitur Pompeium iam oratione mea reliqua, sed vos, iudices, animis ac memoria tenetote. De lege, de foedere, de exemplis, de perpetua consuetudine civitatis nostrae renovabo ea quae dicta sunt. Nihil enim mihi novi, nihil integri neque M. Crassus, qui totam causam et pro facultate et pro fide sua diligentissime vobis explicavit, neque Cn. Pompeius, cuius oratio omnibus ornamentis abundavit, ad dicendum reliquit. Sed quoniam me recusante placuit ambobus adhiberi hunc a me quasi perpoliendi quendam operis extremum laborem, peto a vobis ut me offici potius quam dicendi studio hanc suscepisse operam ac mu-
18 nus putetis. Ac prius quam aggrediar ad ius causamque Corneli, quiddam de communi condicione omnium nostrum

deprecandae malevolentiae causa breviter commemorandum videtur. Si quo quisque loco nostrum est, iudices, natus aut si in qua fortuna est nascendi initio constitutus, hunc vitae statum usque ad senectutem optinere deberet et si omnes, quos aut fortuna extulit aut ipsorum illustravit labor et industria poena essent afficiendi, non gravior L. Cornelio quam multis viris bonis atque fortibus constitui lex vitae et condicio videretur: sin autem multorum virtus ingenium humanitas ex infimo genere et fortunae gradu non modo amicitias et rei familiaris copias consecuta est, sed summam laudem honores, gloriam dignitatem, non intellego cur potius invidia violatura virtutem L. Corneli quam aequitas vestra pudorem eius adiutura videatur. Itaque, quod maxime 19
petendum est, a vobis idcirco non peto, iudices, ne de vestra sapientia atque de vestra humanitate dubitare videar—est autem petendum ne oderitis ingenium, ne inimici sitis industriae, ne humanitatem opprimendam, ne virtutem poeniendam putetis—illud peto, ut, si causam ipsam per se firmam esse et stabilem videritis, hominis ipsius ornamenta adiumento causae potius quam impedimento esse malitis.

VIII. Nascitur, iudices, causa Corneli ex ea lege, quam L. Gellius Cn. Cornelius ex senatus sententia tulerunt: qua lege videmus ita esse sanctum, ut cives Romani sint ei, quos Cn. Pompeius de consili sententia singillatim civitate donaverit. Donatum esse L. Cornelium praesens Pompeius dicit, indicant publicae tabulae, accusator fatetur, sed negat ex foederato populo quemquam potuisse, nisi is populus fundus factus esset, in hanc civitatem venire. O praecla- 20
rum interpretem iuris, auctorem antiquitatis, correctorem atque emendatorem nostrae civitatis! Qui hanc poenam foederibus ascribat, ut omnium praemiorum beneficiorumque nostrorum expertis faciat foederatos. Quid enim potuit dici

imperitius quam foederatos populos fieri fundos oportere? Nam id non magis est proprium foederatorum quam omnium liberorum. Sed totum hoc, iudices, in ea fuit positum semper ratione atque sententia, ut, cum iussisset populus Romanus aliquid, si id ascivissent socii populi ac Latini et si ea lex, quam nos haberemus, eadem in populo aliquo tamquam in fundo resedisset, ut tum lege eadem is populus teneretur, non ut de nostro iure aliquid deminueretur, sed ut illi populi aut iure eo, quod a nobis esset constitutum, aut
21 aliquo commodo aut beneficio uterentur. Tulit apud maiores nostros legem C. Furius de testamentis, tulit Q. Voconius de mulierum hereditatibus; innumerabiles aliae leges de civili iure sunt latae: quas Latini voluerunt, asciverunt: ipsa denique Iulia, qua lege civitas est sociis et Latinis data, qui fundi populi facti non essent, civitatem non haberent. In quo magna contentio Heracliensium et Neapolitanorum fuit, cum magna pars in eis civitatibus foederis sui libertatem civitati anteferret. Postremo haec vis est istius et iuris et verbi,
22 ut fundi populi beneficio nostro, non suo iure fiant. Cum aliquid populus Romanus iussit, id si est eius modi ut quibusdam populis sive foederatis sive liberis permittendum esse videatur, ut statuant ipsi non de nostris, sed de suis rebus, quo iure uti velint, tum utrum fundi facti sint an non quaerendum esse videtur: de nostra vero re publica, de nostro imperio, de nostris bellis, de victoria, de salute fundos populos fieri noluerunt. IX. Atqui si imperatoribus nostris, si senatui, si populo Romano non licebit propositis praemiis elicere ex civitatibus sociorum atque amicorum fortissimum atque optimum quemque ad subeunda pro salute nostra pericula, summa utilitate ac maximo saepe praesidio periculosis
23 atque asperis temporibus carendum nobis erit. Sed, per deos immortalis, quae est ista societas, quae amicitia, quod foedus, ut aut nostra civitas careat in suis periculis Massi-

liensi propugnatore, careat Gaditano, careat Saguntino, aut, si quis ex eis populis sit exortus qui nostros duces auxilio laboris, commeatus periculo suo iuverit, qui cum hoste nostro comminus in acie saepe pugnarit, qui se saepe telis hostium, qui dimicationi capitis, qui morti obiecerit, nulla condicione huius civitatis praemiis affici possit? Etenim 24 in populum Romanum grave est, non posse uti sociis excellenti virtute praeditis, qui velint cum periculis nostris sua communicare: in socios vero ipsos et in eos de quibus agimus, foederatos, iniuriosum et contumeliosum est eis praemiis et eis honoribus exclusos esse fidelissimos et coniunctissimos socios, quae pateant stipendiariis, pateant hostibus, pateant saepe servis. Nam stipendiarios ex Africa Sicilia Sardinia ceteris provinciis multos civitate donatos videmus et, qui hostes ad nostros imperatores perfugissent et magno usui rei publicae nostrae fuissent, scimus civitate esse donatos; servos denique, quorum ius fortuna condicio infima est, bene de re publica meritos persaepe libertate, id est civitate, publice donari videbamus.

X. Hanc tu igitur, patrone foederum ac foederatorum, 25 condicionem statuis Gaditanis, tuis civibus, ut, quod eis, quos Magni armis adiutoribus tuis subegimus atque in dicionem nostram redegimus, licet, si populus Romanus permiserit, ut ab senatu, etiam ab imperatoribus nostris civitate donentur, id ne liceat ipsis? Qui si suis decretis legibusve sanxissent, ne quis suorum civium castra imperatorum populi Romani iniret, ne quis se pro nostro imperio in periculum capitis atque in vitae discrimen inferret, Gaditanorum auxiliis, cum vellemus, uti nobis liceret, privatus vero ne quis vir et animo et virtute praecellens pro nostro imperio periculo suo dimicaret, graviter id iure ferremus, minui auxilia populi Romani, debilitari animos fortissimorum virorum, alienigenarum nos hominum studiis atque paterna virtute

26 privari. Atqui nihil interest, iudices, utrum haec foederati iura constituant, ut ne cui liceat ex eis civitatibus ad nostrorum bellorum pericula accedere, an, quae nos eorum civibus virtutis causa tribuerimus, ea rata esse non possint: nihil enim magis uteremur his adiutoribus sublatis virtutis praemiis, quam si omnino eis versari in nostris bellis non liceret. Etenim cum pro sua patria pauci post genus hominum natum reperti sint qui nullis praemiis propositis vitam suam hostium telis obiecerint, pro aliena re publica quemquam fore putatis qui se opponat periculis non modo nullo proposito praemio, sed etiam interdicto?

27 XI. Sed cum est illud imperitissime dictum de populis fundis, quod commune liberorum est populorum, non proprium foederatorum, ex quo intellegi necesse est aut neminem ex sociis civem fieri posse aut etiam posse ex foederatis, tum vero ius omne noster iste magister mutandae civitatis ignorat, quod est, iudices, non solum in legibus publicis positum, sed etiam in privatorum voluntate. Iure enim nostro neque mutari civitate quisquam invitus potest neque, si velit, mutari non potest, modo asciscatur ab ea civitate, cuius esse se civitatis velit: ut, si Gaditani sciverint nominatim de aliquo cive Romano, ut sit is civis Gaditanus, magna potestas sit nostro civi mutandae civitatis nec foedere impediatur quo minus ex cive Romano civis Gaditanus

28 possit esse. Duarum civitatum civis noster esse iure civili nemo potest: non esse huius civitatis, qui se alii civitati dicarit, potest: neque solum dicatione, quod in calamitate clarissimis viris Q. Maximo C. Laenati Q. Philippo Nuceriae, C. Catoni Tarracone, Q. Caepioni P. Rutilio Zmyrnae videmus accidisse, ut earum civitatum fierent cives, cum hanc ante amittere non potuissent quam hoc solum civitatis mutatione vertissent, sed etiam postliminio potest civitatis fieri mutatio. Neque enim sine causa de Cn. Publicio

Menandro, libertino homine, quem apud maiores legati nostri in Graeciam proficiscentes interpretem secum habere voluerunt, ad populum latum est, ut is Publicius, si domum revenisset et inde Romam redisset, ne minus civis esset. Multi etiam superiore memoria cives Romani sua voluntate, indemnati et incolumes, his rebus relictis alias se in civitates contulerunt.

XII. Quod si civi Romano licet esse Gaditanum sive 29
exsilio sive postliminio sive reiectione huius civitatis—ut iam ad foedus veniam, quod ad causam nihil pertinet, de civitatis enim iure, non de foederibus disceptamus—quid est quam ob rem civi Gaditano in hanc civitatem venire non liceat? Equidem longe secus sentio: nam cum ex omnibus civitatibus via sit in nostram cumque nostris civibus pateat ad ceteras iter civitates, tum vero, ut quaeque nobiscum maxime societate amicitia sponsione pactione foedere est coniuncta, ita mihi maxime communione beneficiorum praemiorum civitatis contineri videtur. Atqui ceterae civitates omnes non dubitarent nostros homines recipere in suas civitates, si idem nos iuris haberemus quod ceteri; sed nos non possumus et huius esse civitatis et cuiusvis praeterea, ceteris concessum est. Itaque in Graecis civitatibus vide- 30
mus, Athenis Rhodios Lacedaemonios, ceteros undique ascribi multarumque esse eosdem homines civitatum. Quo errore ductos vidi egomet non nullos imperitos homines, nostros civis, Athenis in numero iudicum atque Areopagitarum, certa tribu, certo numero, cum ignorarent, si illam civitatem essent adepti, hanc se perdidisse, nisi postliminio recuperassent. Peritus vero nostri moris ac iuris nemo umquam, qui hanc civitatem retinere vellet, in aliam se civitatem dicavit.

XIII. Sed hic totus locus disputationis atque orationis meae, iudices, pertinet ad commune ius mutandarum civita-

tum: nihil habet quod sit proprium religionis ac foederum. Defendo enim rem universam, nullam esse gentem ex omni regione terrarum neque tam dissidentem a populo Romano odio quodam atque discidio neque tam fide benevolentiaque coniunctam, ex qua nobis interdictum sit, ne quem asci-
31 scere civem aut civitate donare possimus. O iura praeclara atque divinitus iam inde a principio Romani nominis a maioribus nostris comparata! Ne quis nostrum plus quam unius civitatis esse possit—dissimilitudo enim civitatum varietatem iuris habeat necesse est—ne quis invitus civitate mutetur neve in civitate maneat invitus. Haec sunt enim fundamenta firmissima nostrae libertatis, sui quemque iuris et retinendi et dimittendi esse dominum. Illud vero sine ulla dubitatione maxime nostrum fundavit imperium et populi Romani nomen auxit, quod princeps ille creator huius urbis Romulus foedere Sabino docuit etiam hostibus recipiendis augeri hanc civitatem oportere: cuius auctoritate et exemplo numquam est intermissa a maioribus nostris largitio et communicatio civitatis. Itaque et ex Latio multi, ut Tusculani et Lanuvini, et ex ceteris generibus gentes universae in civitatem sunt receptae, ut Sabinorum Volscorum Hernicorum: quibus ex civitatibus nec coacti essent civitate mutari, si qui noluissent, nec, si qui essent civitatem nostram beneficio populi Romani consecuti, violatum foedus eorum videretur.

32 XIV. At enim quaedam foedera exstant, ut Cenomanorum Insubrium Helvetiorum Iapidum, non nullorum item ex Gallia barbarorum, quorum in foederibus exceptum est, ne quis eorum a nobis civis recipiatur. Quod si exceptio facit, ne liceat, ubi non est exceptum, ibi necesse est licere. Ubi est igitur in foedere Gaditano exceptum, ne quem populus Romanus Gaditanum recipiat civitate? Nusquam. Ac sicubi esset, lex id Gellia et Cornelia, quae definite potestatem

Pompeio civitatem donandi dederat, sustulisset. Exceptum, inquit, est foedus, SI QUID SACROSANCTUM EST. Ignosco tibi, si neque Poenorum iura calles—reliqueras enim civitatem tuam—neque nostras potuisti leges inspicere: ipsae enim te a cognitione sua iudicio publico reppulerunt. Quid fuit in 33
rogatione ea, quae de Pompeio a Gellio et a Lentulo consulibus lata est, in quo aliquid sacrosanctum exceptum videretur? Primum enim sacrosanctum esse nihil potest, nisi quod populus plebesve sanxit; deinde sanctiones sacrandae sunt aut genere ipso poenae aut cum obtestatione et consecratione legis, caput eius, qui contra fecerit, consecratur. Quid habes igitur dicere de Gaditano foedere eius modi? Utrum capitis consecratione an obtestatione legis sacrosanctum esse confirmas? Nihil omnino umquam de isto foedere ad populum, nihil ad plebem latum esse dico: de quibus etiam si latum esset ne quem civem reciperemus, tamen id esset, quod postea populus iussisset, ratum, neque quicquam illis verbis SI QUID SACROSANCTUM EST, esse exceptum videretur, de eis, cum populus Romanus nihil umquam iusserit, quicquam audes dicere sacrosanctum fuisse?

XV. Nec vero haec oratio mea ad infirmandum foedus 34
Gaditanorum, iudices, pertinet. Neque enim est meum contra ius optime meritae civitatis, contra opinionem vetustatis, contra auctoritatem senatus dicere. Duris enim quondam temporibus rei publicae nostrae, cum praepotens terra marique Karthago nixa duabus Hispaniis huic imperio imminneret et cum duo lumina nostri imperi subito in Hispania, Cn. et P. Scipiones exstincti occidissent, L. Marcius primi pili centurio cum Gaditanis foedus icisse dicitur. Quod cum magis fide illius populi, iustitia nostra, vetustate denique ipsa quam aliquo publico vinculo religionis teneretur, sapientes homines et publici iuris periti, Gaditani, M. Lepido Q. Catulo consulibus a senatu de foedere postulaverunt. Tum

est cum Gaditanis foedus vel renovatum vel ictum, de quo foedere populus Romanus sententiam non tulit, qui iniussu
35 suo nullo pacto potest religione obligari. Ita Gaditana civitas, quod beneficiis suis erga rem publicam nostram consequi potuit, quod imperatorum testimoniis, quod vetustate, quod Q. Catuli, summi viri, auctoritate, quod iudicio senatus, quod foedere, consecuta est: quod publica religione sanciri potuit, id abest; populus enim se nusquam obligavit. Neque ideo est Gaditanorum causa deterior; gravissimis enim et plurimis rebus est fulta. Sed isti disputationi hic certe nihil est loci; sacrosanctum enim nihil potest esse, nisi quod per populum plebemve sanctum est. XVI. Quod si hoc foedus, quod populus Romanus auctore senatu, commendatione et iudicio vetustatis, voluntate et sententiis suis comprobat, idem suffragiis comprobasset, quid erat cur ex ipso foedere Gaditanum in civitatem nostram recipi non liceret? Nihil est enim aliud in foedere nisi ut PIA ET AETERNA PAX sit. Quid id ad civitatem? Adiunctum illud etiam est, quod non est in omnibus foederibus: MAIESTATEM POPULI ROMANI COMITER CONSERVANTO. Id
36 habet hanc vim, ut sit ille in foedere inferior? Primum verbi genus hoc CONSERVANTO, quo magis in legibus quam in foederibus uti solemus, imperantis est, non precantis. Deinde cum alterius populi maiestas conservari iubetur, de altero siletur, certe ille populus in superiore condicione causaque ponitur, cuius maiestas foederis sanctione defenditur. In quo erat accusatoris interpretatio indigna responsione, qui ita dicebat, COMITER esse communiter, quasi vero priscum aliquod aut insolitum verbum interpretaretur. Comes benigni, faciles suaves homines esse dicuntur: qui erranti comiter monstrat viam, benigne, non gravate: communiter
37 quidem certe non convenit. Et simul absurda res est caveri foedere ut maiestatem populi Romani communiter conser-

vent, id est, ut populus Romanus suam maiestatem esse salvam velit. Quod si iam ita esset, ut esse non potest, tamen de nostra maiestate, nihil de illorum caveretur. Potestne igitur nostra maiestas a Gaditanis benigne conservari, si ad eam retinendam Gaditanos praemiis elicere non possumus? Potest esse ulla denique maiestas, si impedimur quo minus per populum Romanum beneficiorum virtutis causa tribuendorum potestatem imperatoribus nostris deferamus?

XVII. Sed quid ego disputo quae mihi tum, si Gadi- 38
tani contra me dicerent, vere posse dici viderentur? Illis enim repetentibus L. Cornelium responderem legem populum Romanum iussisse de civitate tribuenda; huic generi legum fundos populos fieri non solere; Cn. Pompeium de consili sententia civitatem huic dedisse, nullum populi nostri iussum Gaditanos habere, itaque nihil esse sacrosanctum, quod lege exceptum videretur; si esset, tamen in foedere nihil esse cautum praeter pacem; additum esse etiam illud, ut maiestatem illi nostram conservare deberent, quae certe minueretur, si aut adiutoribus illorum civibus uti in bellis nobis non liceret aut praemi tribuendi potestatem nullam haberemus. Nunc vero quid ego contra Gaditanos loquar, 39
cum id quod defendo, voluntate eorum, auctoritate, legatione ipsa comprobetur? Qui a principio sui generis ac rei publicae, id est, ab omni studio sensuque Poenorum mentis suas ad nostrum imperium nomenque flexerunt: qui, cum maxima bella nobis inferrentur, eos moenibus excluserunt, classibus insecuti sunt, corporibus opibus copiis depulerunt; qui et veterem illam speciem foederis Marciani semper omni sanctiorem arce duxerunt et hoc foedere Catuli senatusque auctoritate se nobiscum coniunctissimos esse arbitrati sunt; quorum moenia delubra agros ut Hercules ipse itinerum ac laborum suorum, sic maiores nostri imperi ac

40 nominis populi Romani terminos esse voluerunt. Testantur et mortuos nostros imperatores, quorum vivit immortalis memoria et gloria, Scipiones Brutos Flaccos Crassos Metellos et hunc praesentem Cn. Pompeium, quem procul ab illorum moenibus acre et magnum bellum gerentem commeatu pecuniaque iuverunt, et hoc tempore ipso populum Romanum, quem in caritate annonae, ut saepe ante fecerant, frumento suppeditato levarunt, se hoc ius esse velle, ut sibi et liberis, si qui eximia virtute fuerint, sit in nostris castris, sit in imperatorum praetoriis, sit denique inter signa atque in acie locus, sit his gradibus ascensus etiam ad civi-

41 tatem. XVIII. Quod si Afris, si Sardis, si Hispanis agris stipendioque multatis virtute adipisci licet civitatem, Gaditanis autem officiis, vetustate, fide, periculis, foedere coniunctis hoc idem non licebit, non foedus sibi nobiscum, sed iniquissimas leges impositas a nobis esse arbitrabuntur. Atque hanc, iudices, non a me fingi orationem, sed me dicere quae Gaditani iudicarint res ipsa declarat. Hospitium multis annis ante hoc tempus cum L. Cornelio Gaditanos fecisse publice dico: proferam tesseram: legatos excito: laudatores ad hoc iudicium, summos homines ac nobilissimos, deprecatores huius periculi missos videtis: re denique multo ante Gadibus audita, ne forte huic ab illo periculum crearetur, gravissima in istum civem suum Gaditani in senatu con-

42 vicia fecerunt. Potuit magis fundus populus Gaditanus fieri, quoniam hoc magno opere delectaris verbo, si tum fit fundus, cum scita ac iussa nostra sua sententia comprobat, quam cum hospitium fecit, ut et civitate illum mutatum esse fateretur et huius civitatis honore dignissimum iudicaret? Potuit certius interponere iudicium voluntatis suae, quam cum etiam accusatorem huius multa et poena notavit? Potuit magis de re iudicare quam cum ad vestrum iudicium civis amplissimos legavit, testis huius iuris, vitae laudatores,

periculi deprecatores? Etenim quis est tam demens quin 43
sentiat ius hoc Gaditanis esse retinendum, ne saeptum sit
eis iter perpetuo ad hoc amplissimum praemium civitatis, et
magno opere eis esse laetandum, huius L. Corneli benevo-
lentiam erga suos remanere Gadibus, gratiam et facultatem
commendandi in hac civitate versari? Quis est enim nostrum
cui non illa civitas sit huius studio cura diligentia com-
mendatior? XIX. Omitto quantis ornamentis populum
istum C. Caesar, cum esset in Hispania praetor, affecerit,
controversias sedarit, iura ipsorum permissu statuerit, inveteratam quondam barbariam ex Gaditanorum moribus disciplinaque delerit, summa in eam civitatem huius rogatu studia et beneficia contulerit. Multa praetereo, quae cottidie labore huius et studio aut omnino aut certe facilius consequantur. Itaque et adsunt principes civitatis et defendunt amore ut suum civem, testimonio ut nostrum, officio ut ex nobilissimo civi sanctissimum hospitem, studio ut diligentissimum defensorem commodorum suorum. Ac ne ipsi Gaditani arbitren- 44
tur, quamquam nullo incommodo afficiantur, si liceat eorum civis virtutis causa in nostram civitatem venire, tamen hoc ipso inferius esse suum foedus quam ceterorum, consolabor et hos praesentis, viros optimos, et illam fidelissimam atque amicissimam nobis civitatem, simul et vos, non ignorantis, iudices, admonebo, quo de iure hoc iudicium constitutum est de eo numquam omnino esse dubitatum.

Quos igitur prudentissimos interpretes foederum, quos 45
peritissimos bellici iuris, quos diligentissimos in exquirendis condicionibus civitatum atque causis esse arbitramur? Eos profecto, qui iam imperia ac bella gesserunt. XX. Etenim si Q. Scaevola ille augur, cum de iure praediatorio consuleretur, homo iuris peritissimus, consultores suos non numquam ad Furium et Cascellium praediatores reiciebat, si nos de aqua nostra Tusculana M. Tugionem potius quam

C. Aquilium consulebamus, quod assiduus usus uni rei deditus et ingenium et artem saepe vincit, quis dubitet de foederibus et de toto iure pacis et belli omnibus iuris peri-
46 tissimis imperatores nostros anteferre? Possumusne igitur tibi probare auctorem exempli atque facti illius, quod a te reprehenditur, C. Marium? Quaeris aliquem graviorem constantiorem praestantiorem virtute prudentia, religione aequitate? Is igitur Iguvinatem M. Annium Appium, fortissimum virum, summa virtute praeditum, civitate donavit, idem cohortis duas universas Camertium, cum Camertinum foederum sanctissimum atque aequissimum sciret esse. Potest igitur, iudices, L. Cornelius condemnari, ut non C.
47 Mari factum condemnetur? Exsistat ergo ille vir parumper cogitatione vestra, quoniam re non potest, ut conspiciatis eum mentibus, quem iam oculis non potestis; dicat se non imperitum foederis, non rudem exemplorum, non ignarum bellici iuris fuisse; se P. Africani discipulum ac militem; se stipendiis, se legationibus bellicis eruditum; se, si tanta bella legisset, quanta et gessit et confecit, si tot consulibus meruisset, quotiens ipse consul fuit, omnia iura belli perdiscere ac nosse potuisse; sibi non fuisse dubium quin nullo foedere a re publica bene gerenda impediretur; a se ex coniunctissima atque amicissima civitate fortissimum quemque esse dilectum; neque Iguvinatium neque Camertium foedere esse exceptum quo minus eorum civibus a populo Romano prae-
48 mia virtutis tribuerentur. XXI. Itaque cum paucis annis post hanc civitatis donationem acerrima de civitate quaestio Licinia et Mucia lege venisset, num quis eorum, qui de foederatis civitatibus esset civitate donatus, in iudicium est vocatus? Nam Spoletinus T. Matrinius unus ex eis, quos C. Marius civitate donasset, dixit causam ex colonia Latina in primis firma et illustri. Quem cum disertus homo L. Antistius accusaret, non dixit fundum Spoletinum populum

non esse factum, videbat enim populos de suo iure, non de nostro fundos fieri solere, sed cum lege Apuleia coloniae non essent deductae, qua lege Saturninus C. Mario tulerat ut in singulas colonias ternos civis Romanos facere posset, negabat hoc beneficium re ipsa sublata valere debere. Nihil 49 habet similitudinis ista accusatio, sed tamen tanta auctoritas in C. Mario fuit, ut non per L. Crassum, affinem suum, hominem incredibili eloquentia, sed paucis ipse verbis causam illam gravitate sua defenderit et probarit. Quis enim esset, iudices, qui imperatoribus nostris in bello, in acie, in exercitu dilectum virtutis, qui sociis, qui foederatis in defendenda re publica nostra spem praemiorum eripi vellet? Quod si voltus C. Mari, si vox, si ille imperatorius ardor oculorum, si recentes triumphi, si praesens valuit aspectus, valeat auctoritas, valeant res gestae, valeat memoria, valeat fortissimi et clarissimi viri nomen aeternum. Sit hoc discrimen inter gratiosos civis atque fortis, ut illi vivi fruantur opibus suis, horum etiam mortuorum, si quisquam huius imperi defensor mori potest, vivat auctoritas immortalis.

XXII. Quid? Cn. Pompeius pater rebus Italico bello 50 maximis gestis P. Caesium, equitem Romanum, virum bonum, qui vivit, Ravennatem, foederato ex populo, nonne civitate donavit? quid? cohortis duas universas Camertium C. Marius? quid? Heracliensem Alexam P. Crassus, vir amplissimus, ex ea civitate, quacum prope singulare foedus Pyrrhi temporibus C. Fabricio consule ictum putatur? quid? Massiliensem Aristonem L. Sulla? quid? quoniam de Gaditanis agimus, idem servos novem Gaditanos? quid? vir sanctissimus et summa religione ac modestia, Q. Metellus Pius, Q. Fabium Saguntinum? Quid? hic, qui adest, a quo haec quae ego nunc percurro, subtilissime sunt omnia perpolita, M. Crassus, non Avenien̄sem foederatum civitate donavit, homo cum gravitate et prudentia praestans tum vel

51 nimium parcus in largienda civitate? Hic tu Cn. Pompei beneficium vel potius iudicium et factum infirmare conaris, qui fecit quod C. Marium fecisse audierat, fecit quod P. Crassum, quod L. Sullam, quod Q. Metellum, quod denique domesticum auctorem, patrem suum, facere viderat? Neque vero id in uno Cornelio fecit; nam et Gaditanum Hasdrubalem ex bello illo Africano et Mamertinos Ovios et quosdam Uticensis et Saguntinos Fabios civitate donavit. Etenim cum ceteris praemiis digni sunt qui suo labore et periculo nostram rem publicam defendunt, tum certe dignissimi sunt qui civitate ea donentur, pro qua pericula ac tela subierunt. Atque utinam, qui ubique sunt propugnatores huius imperi, possent in hanc civitatem venire et contra oppugnatores rei publicae de civitate exterminari! Neque enim ille summus poeta noster Hannibalis illam magis cohortationem quam communem imperatoriam voluit esse: Hostem qui feriet, erit, inquit, mihi Karthaginiensis, quisquis erit. Cuius civitatis sit id habent hodie leve et semper habuerunt. Itaque et civis undique fortis viros asciverunt et hominum ignobilium virtutem persaepe nobilitatis inertiae praetulerunt.

52 XXIII. Habetis imperatorum summorum et sapientissimorum hominum, clarissimorum virorum, interpretationem iuris ac foederum: dabo etiam iudicum, qui huic quaestioni praefuerunt, dabo universi populi Romani, dabo sanctissimum et sapientissimum iudicium etiam senatus. Iudices cum prae se ferrent palamque loquerentur quid essent lege Papia de M. Cassio Mamertinis repetentibus iudicaturi, Mamertini publice suscepta causa destiterunt. Multis in civitatem receptis ex liberis foederatisque populis nemo umquam est de civitate accusatus, quod aut populus fundus factus non esset aut quod foedere civitatis mutandae ius impediretur.

53 Audebo etiam hoc contendere, numquam esse condemnatum quem constaret ab imperatore nostro civitate dona-

tum. Cognoscite nunc populi Romani iudicium multis rebus interpositum atque in maximis causis re ipsa atque usu comprobatum. Cum Latinis omnibus foedus esse ictum Sp. Cassio Postumo Cominio consulibus quis ignorat? quod quidem nuper in columna ahenea meminimus post rostra incisum et perscriptum fuisse. Quo modo igitur L. Cossinius Tiburs, pater huius equitis Romani, optimi atque ornatissimi viri, damnato T. Coelio, quo modo ex eadem civitate T. Coponius, civis item summa virtute et dignitate —nepotes T. et C. Coponios nostis—damnato C. Masone civis Romanus est factus? An lingua et ingenio patefieri 54
aditus ad civitatem potuit, manu et virtute non potuit? Anne de nobis trahere spolia foederatis licebat, de hostibus non licebat? An quod adipisci poterant dicendo, id eis pugnando adsequi non licebat? An accusatori maiores nostri maiora praemia quam bellatori esse voluerunt? XXIV. Quod si acerbissima lege Servilia principes viri atque gravissimi cives hanc Latinis, id est foederatis, viam ad civitatem populi iussu patere passi sunt, neque ius est hoc reprehensum Licinia et Mucia lege, cum praesertim genus ipsum accusationis et nomen et eius modi praemium, quod nemo adsequi posset nisi ex senatoris calamitate, neque senatori neque bono cuiquam nimis iucundum esse posset, dubitandum fuit quin quo in genere iudiciorum praemia rata essent, in eodem iudicia imperatorum valerent? num fundos igitur factos populos Latinos arbitramur aut Serviliae legi aut ceteris, quibus Latinis hominibus erat propositum aliqua ex re praemium civitatis? Cognoscite nunc iudicium senatus, quod semper 55
iudicio est populi comprobatum. Sacra Cereris, iudices, summa maiores nostri religione confici caerimoniaque voluerunt, quae cum essent adsumpta de Graecia et per Graecas curata sunt semper sacerdotes et Graeca omnia nominata. Sed cum illam, quae Graecum illud sacrum monstraret et

faceret, ex Graecia deligerent, tamen sacra pro civibus civem facere voluerunt, ut deos immortalis scientia peregrina et externa, mente domestica et civili precaretur. Has sacerdotes video fere aut Neapolitanas aut Veliensis fuisse, foederatarum sine dubio civitatum. Mitto vetera: proxime dico ante civitatem Veliensibus datam de senatus sententia C. Valerium Flaccum, praetorem urbanum, nominatim ad populum de Calliphana Veliense, ut ea civis Romana esset tulisse: num igitur aut fundos factos Veliensis aut sacerdotem illam civem Romanam factam non esse aut foedus et a senatu et a populo Romano violatum arbitramur?

56 XXV. Intellego, iudices, in causa aperta minimeque dubia multo et plura et a pluribus peritissimis esse dicta quam res postularet. Sed id factum est, non ut vobis rem tam perspicuam dicendo probaremus, verum ut omnium malevolorum iniquorum invidorum animos frangeremus: quos ut accusator incenderet, ut aliqui sermones hominum alienis bonis maerentium etiam ad vestras auris permanarent et in iudicio ipso redundarent, idcirco illa in omni parte orationis summa arte aspergi videbatis; tum pecuniam L. Corneli, quae neque invidiosa est et, quantacumque est, eius modi est, ut conservata magis quam correpta esse videatur; tum luxuriam, quae non crimine aliquo libidinis, sed communi maledicto notabatur; tum Tusculanum, quod Q. Metelli fuisse meminerat et L. Crassi, Crassum emisse de libertino homine, Soterico Marcio, ad Metellum pervenisse de Vennoni Vindici bonis non tenebat: simul illud nesciebat, praediorum nullam esse gentem, emptionibus ea solere saepe ad alienos homines, saepe ad infimos, non legibus
57 tamquam tutelas pervenire. Obiectum est etiam, quod in tribum Clustuminam pervenerit, quod hic adsecutus est legis de ambitu praemio minus invidiose, quam qui legum praemiis praetoriam sententiam et praetextam togam conse-

cuntur. Et adoptatio Theophani agitata est, per quam Cornelius nihil est praeterquam propinquorum suorum hereditates adsecutus.

XXVI. Quamquam istorum animos, qui ipsi Cornelio invident, non est difficillimum mitigare. More hominum invident, in conviviis rodunt, in circulis vellicant: non illo inimico, sed hoc maledico dente carpunt. Qui amicis L. 58
Corneli aut inimici sunt aut invident, ei sunt huic multo vehementius pertimescendi. Nam huic quidem ipsi quis est umquam inventus inimicus aut quis iure esse potuit? Quem bonum non coluit? Cuius fortunae dignitatique non concessit? Versatus in intima familiaritate hominis potentissimi, in maximis nostris malis atque discordiis neminem umquam alterius rationis ac partis, non re, non verbo, non voltu denique offendit. Fuit hoc sive meum sive rei publicae fatum, ut in me unum omnis illa inclinatio communium temporum incumberet. Non modo non exsultavit in ruinis nostris vestrisque discordiis Cornelius, sed omni officio, lacrimis opera consolatione omnis me absente meos sublevavit. Quorum ego testimonio ac precibus munus hoc meritum 59
huic et, ut a principio dixi, iustam et debitam gratiam refero, speroque, iudices, ut eos, qui principes fuerunt conservandae salutis aut dignitatis meae, diligitis et caros habetis, sic, quae ab hoc pro facultate eius, pro loco facta sunt, et grata esse vobis et probata. Non igitur a suis, quos nullos habet, sed a suorum, qui et multi et potentes sunt, urguetur inimicis: quos quidem hesterno die Cn. Pompeius copiosa oratione et gravi secum, si vellent, contendere iubebat, ab hoc impari certamine atque iniusta contentione avocabat. XXVII. Et 60
erat aequa lex et nobis, iudices, atque omnibus, qui nostris familiaritatibus implicantur, vehementer utilis, ut nostras inimicitias ipsi inter nos geramus, amicis nostrorum inimicorum temperemus. Ac si mea auctoritas satis apud illos in

hac re ponderis haberet, cum me praesertim rerum varietate atque usu ipso iam perdoctum viderent, etiam ab illis eos maioribus discordiis avocarem. Etenim contendere de re publica, cum id defendas, quod esse optimum sentias, et fortium virorum et magnorum hominum semper putavi neque huic umquam labori officio muneri defui. Sed contentio tam diu sapiens est, quam diu aut proficit aliquid aut,
61 si non proficit, non obest civitati. Voluimus quaedam, contendimus, experti sumus: optenta non sunt. Dolorem alii, nos luctum maeroremque suscepimus. Cur ea, quae mutare non possumus, convellere malumus quam tueri? C. Caesarem senatus et genere supplicationum amplissimo ornavit et numero dierum novo. Idem in angustiis aerari victorem exercitum stipendio affecit, imperatori decem legatos decrevit, lege Sempronia succedendum non censuit. Harum ego sententiarum et princeps et auctor fui, neque me dissensioni meae pristinae putavi potius adsentiri quam praesentibus rei publicae temporibus et concordiae convenire. Non idem aliis videtur. Sunt fortasse in sententia firmiores. Reprehendo neminem, sed adsentior non omnibus: neque esse inconstantis puto sententiam tamquam aliquod navigium atque cursum ex rei publicae tempestate moderari.
62 Sed si qui sunt quibus infinitum sit odium in quos semel susceptum est, quos video esse non nullos, cum ducibus ipsis, non cum comitatu adsectatoribusque confligant. Illam enim fortasse pertinaciam non nulli, virtutem alii putabunt: hanc vero iniquitatem omnes cum aliqua crudelitate coniunctam. Sed si certorum hominum mentes nulla ratione, iudices, placare possumus, vestros quidem animos certe confidimus non oratione nostra, sed humanitate vestra esse placatos.

63 XXVIII. Quid enim est cur non potius ad summam laudem huic quam ad minimam fraudem Caesaris familiari-

tas valere debeat? Cognovit adulescens: placuit homini prudentissimo: in summa amicorum copia cum familiarissimis eius est adaequatus. In praetura, in consulatu praefectum fabrum detulit: consilium hominis probavit, fidem est complexus, officia observantiamque dilexit. Fuit hic multorum illi laborum socius aliquando: est fortasse nunc non nullorum particeps commodorum. Quae quidem si huic offuerint apud vos, non intellego quod bonum cuiquam sit apud talis viros profuturum. Sed quoniam C. Caesar abest 64
longissime atque in eis est nunc locis, quae regione orbem terrarum, rebus illius gestis imperium populi Romani definiunt, nolite, per deos immortalis, iudices, hunc illi acerbum nuntium velle perferri, ut suum praefectum fabrum, ut hominem sibi carissimum et familiarissimum non ob ipsius aliquod delictum, sed ob suam familiaritatem vestris oppressum sententiis audiat. Miseremini eius, qui non de suo peccato, sed de huius summi et clarissimi viri facto, non de aliquo crimine, sed periculo suo de publico iure disceptat; quod ius si Cn. Pompeius ignoravit, si M. Crassus, si Q. Metellus, si Cn. Pompeius pater, si L. Sulla, si P. Crassus, si C. Marius, si senatus, si populus Romanus, si, qui de re simili iudicarunt, si foederati populi, si socii, si illi antiqui Latini, videte ne utilius vobis et honestius sit illis ducibus errare quam hoc magistro erudiri. Sed si de certo, de perspicuo, de utili, de probato, de iudicato vobis iure esse constituendum videtis, nolite committere ut in re tam inveterata quicquam novi sentiatis. Simul et illa, iudices, 65
omnia ante oculos vestros proponite: primum esse omnis etiam post mortem reos clarissimos illos viros, qui foederatos civitate donarunt: deinde senatum, qui saepe hoc iudicavit: populum, qui iussit: iudices, qui approbarunt. Tum etiam illud cogitate, sic vivere ac vixisse Cornelium, ut, cum omnium peccatorum quaestiones sint, non de vitiorum suo-

rum poena, sed de virtutis praemio in iudicium vocetur. Accedat etiam illud, ut statuatis hoc iudicio utrum posthac amicitias clarorum virorum calamitati hominibus an ornamento esse malitis. Postremo illud, iudices, fixum in animis vestris tenetote, vos in hac causa non de maleficio L. Corneli, sed de beneficio Cn. Pompei iudicaturos.

NOTES.

N. B. *The numbers in the left-hand margin denote the numbers of the lines on the pages of the text. Where a reference is given in the body of a note, to the text, the first number refers to the small section; p. denotes page, l. line. In quoting from other parts of Cicero reference is always made to sections, not to chapters.*

§ 1, p. 21.

1 *auctoritates:* "there are in Latin 3814 abstract nouns, of which 2889 occur only in the sing., 925 also in the plur." Draeger, Hist. Synt. 1, 9. Cic. uses these abstract plurals in overwhelmingly larger proportion than any other author. Here, as often, the plur. has reference to a concrete plur., viz. *patronorum*: so Verr. 3, 4, 7 *industrias* (so MSS) *hominum novorum.*

2 *Corneli:* for gen. in *-i* see Appendix.

usus: plur. like *auctoritates, ingenia, studia.*

3 *ingenia:* cf. Arch. 1, l. 1.

studia: "devotion".

cum...tum: n. in my ed. of Arch. p. 80. The succeeding *cum* is unpleasant to a modern ear, but such repetitions are common in Latin; so Arch. 6, l. 20, Sull. 6, etc.

5 *partes:* always used in the plur. in this sense, by good writers. Quintilian first uses the sing. Cf. Mur. 6 *has partis lenitatis et misericordiae.*

igitur: if any part of *esse* forms the second word in a sentence, *igitur*, like *enim* and other particles, is very often thrown back to the third place.

6 *vōs: i.e.* the Roman people, represented by the audience; "just so much influence as you have determined I should possess".

7 *nam:* the force of this is not at first sight clear; it is elliptic, and anticipates an objection: "do not misunderstand me, for, etc." Cf. Arch. 23, l. 27, n.

8 *ego:* note the emphatic position of the word.

alio loco: sc. dicam, i.e. in § 58. The ellipse of *dicere* or other verb of the same meaning is exceedingly common in Cic.; cf. 42, l. 22 and Off. 3, 120 *sed de hoc alio loco pluribus: nunc ad propositum.* Many exx. are collected in Nägelsbach, Stilistik § 183, 1, and Draeger 1, 174.

§ 2.

10 *saluti:* as a rule, when *amicus* is a noun, it is followed by the gen., when an adjective, by the dat.; so γνώριμος in Greek.

si minus: a gentler way of saying *si non.*

referenda: referre gratiam is to repay a favour received by a similar favour, *praedicare* and *habere* to proclaim and acknowledge it.

13 *in dicendo:=dicendi*; cf. Brut. 163 *Scaevolae dicendi elegantia.*

14 *admiratione: sc. vestra*; the gen. *vestrorum animorum* must not be repeated with this ablative.

15 *videbatur:* probably here really passive, "was seen to be made clear".

16 *iure:* "a point of law". *Subtilius, peritius, etc.* are not the adjectives but the adverbs from *subtiliter etc.*

17 *exemplis:* "precedents", "cases in point".

foederibus: see Introd. p. 17.

illustriore: "more dazzling"; the word contains the root of *lux.*

18 *re publica:* "affairs of state", opposed to *bellis.*

19 *ipso:* Cic. avoids *se,* which would refer only to Pompeius, whereas the statement is general; "I never heard any more temperate speech made by a man about himself". Cf. De Leg. 1, 56 *nihil quantum in ipso sit praetermittere,* "not to omit anything which lies in one's power".

§ 3.

20 *mihi videatur:* "I am convinced"; the meaning of *videri* is often much stronger than that of the Eng. "seem", as is that of δοκεῖν.

21 *doctrinae dediti:* the Stoics are meant, who were famed for holding aloof from practical life, and who stated many paradoxes about the perfectly wise or moral man (*sapiens,* σοφὸς), as, for instance, that he alone deserved the name of king, statesman, general, etc. *Quasi quiddam incredibile* is a tentative translation of the term παράδοξον, which was regularly applied to these Stoic opinions; cf. Cicero's *Paradoxa, passim.*

22 *omnis animo virtutes:* the Stoics held that virtue was really one and indivisible, and could not be possessed in part; men were therefore either wholly wise or wholly unwise, and the wise man (*sapiens*) must *ex vi termini* possess all virtues. Notice the contrast between *animo* and *faceret;* the paradox lies in assuming that the man who has a perfect *intellectual* apprehension of virtue (for the Stoics made *virtue* and *knowledge* identical) is therefore of necessity perfect in practical affairs. By *comprehendere* Cic. translates καταλαμβάνεσθαι, the word by which the Stoics denoted the grasping of phenomena by the senses, and the assent of the intellect to their truth.

23 *recte cadere:* this is my em. for the MSS reading *tractare,* which makes no sense. Madvig (Opusc. 2, 14) proposed *recte se dare,* which is adopted by all recent editors. *Recte* is certain, because like *rectum* it is constantly used with reference to the favourite Stoic terms τὸ καλὸν (virtue) and κατόρθωμα (a virtuous action). But *se dare* (besides being

awkward) is farther away from the MSS than *cadere*, of which in this sense and construction many exx. may be found in Cic., as De Or. 2, 15 *hoc mihi cecidit peropportune*, Att. 3, 1 *nihil mihi optatius cadere posse*. See critical note in Appendix.

L. Crasso: the famous orator; Cic.'s opinion of his oratory is given in Brutus 143 and 148.

P. 22.

1 *nato ad:* "born to exhibit".

2 *ubertas, etc.:* "richness, diversity, fulness".

3 *tantum...temporis:* cf. n. on Arch. 13, p. 26, l. 3.

§ 4.

5 *quo:* "on this account"; *i.e.* because Pompeius had spoken as well as the great orator Crassus could; *etenim* carries on and enforces the statement, "in fact".

6 *perorandi:* an explanatory or defining genitive. For *extremus locus* see Introd. p. 14, and cf. Sest. 3 *hoc extremo dicendi loco*.

7 *praetervecta sit:* like other compounds of *vehor*, *praetervehor* is really a deponent verb, with a pres. part. *praetervehens* used in an intransitive sense (Liv. 22, 49, 6 *equo praetervehens*). *Sit* not *est*, because not Pompeius' actual speech, but the *class* to which it belongs, is indicated: "a speech of such a nature that it has, etc."

9 *non modo:* an ellipse of *dicam* or the like; cf. 10, l. 17.

mea...cuiusquam: observe that Cic. writes the possessive pronoun (*mea*) not the gen. of the personal pronoun (*mei*), which is not used by him in the possessive sense; cf. 32, p. 33, l. 5. Note the word *oratio* coming thrice in one sentence.

11 *cuius ego v.:* note the order of the words.

periculis: n. on Arch. 13, p. 26, l. 8.

13 *iudici:* his judgment in selecting Balbus for the reward of citizenship. *Beneficī:* "patronage"; n. on Arch. 11, l. 15.

14 *fuerim:* not *fui*, because not the facts merely, but Pompeius' thoughts of them, are referred to.

praedicatorem: "the herald" or "publisher"; cf. *praedicanda* in 2, l. 11, also Fam. 1, 9, 6 *quamquam Pompeio plurimum, te quidem ipso praedicatore ac teste debebam*. *Praedicatio* in Arch. 26, p. 31, l. 2 is almost "notoriety".

15 *actorem:* in the legal sense of pleader, defender, the sentence being briefly put for *actorem causae de facto suo, etc.* Others read *auctorem*, "approver", which does not suit so well the words *apud vos eosdem—in alia causa*. *Actor* in another sense is joined with *auctor* in Sest. 61 *dux auctor actor rerum illarum* and strongly contrasted with it in De Or. 2, 194. It is impossible to identify the *alia causa* to which Cic. refers; some suppose the case to be that of Sestius, which is unlikely.

§ 5.

16 *ac:* "now"; n. on Arch. 2, l. 16.

re publica: MSS *rei* (see Appendix), but the gen. after *dignus* is not

used in verse before Vergil, nor in prose before Tacitus. The gen. occurs in Plaut. Trin. 5, 2, 29 (as quoted by Nonius, and approved by Ritschl and Brix—though the existing MSS have the ablative). It is not allowed in Liv. 4, 37, 1, though in a letter of this very Balbus preserved in Cic. Att. 8, 15 A, 1 Boot still keeps *cogitationem dignissimam tuae virtutis.*

18 *proprium esse:* "seems to be essential to (the performance of) your duty".

causae: gen. after *satis*, as in 60, l. 33; "a sufficient plea", *i.e.* for me to make.

quod...constet etc.: for the reasoning see Introd. p. 15. *Constet* is in the subjunctive by attraction to the mood of *concedant*; cf. Tusc. 5, 118 *quae qui recordetur, haud sane periculum est ne...putet*; also n. on Arch. 18, l. 32.

20 *hesterno die:* so 2, l. 12; this phrase seems more used in formal, while *here* or *heri* is more used in colloquial passages, by Cic. at least. *Hodierno die* for *hodie* is less common.

21 *ipse:* Pompeius, not Balbus. *Ipse* often thus means "the great man", *i.e.* the chief personage of a number in question; cf. Nat. Deor. 1, 10 *nec vero probare soleo id quod de Pythagoreis accepimus, quos ferunt, si quid affirmarent in disputando, cum ex eis quaereretur quare ita esset respondisse solitos* IPSE DIXIT; *ipse autem erat Pythagoras.*

ita...ut: limitative; "that L. Cornelius had all his fortunes at stake, but yet was not charged with any offence".

nullius in d.: for the position of *in* cf. n. on Arch. 1, l. 1. The phrase *in crimen vocare* is common and is followed sometimes by an acc. of a person, sometimes by an acc. of the fault, as *avaritiam* (Verr. 3, 217); sometimes the fault is in the abl. with *de*, as below, 65, p. 46, l. 1. For the gen. here cf. Scaur. 3 *proditionis est in crimen vocatus.*

22 *furatus:* this application to immaterial things is rather rare; cf. Prop. 5, 2, 31 *speciem furabor Iacchi.* By *stealing* the citizenship is meant representing oneself as citizen without being so in reality.

23 *genus ementitus:* "to have falsely represented his family", *i.e.* to have falsely claimed a descent which would have entitled him to the citizenship. With the constr. cf. ψεύδεσθαί τι, to make a false representation about a thing, as in Thuc. 6, 17; also Demosth. Eubul. 1314 τοῖς ὧν μέν εἰσιν ἀποκρυπτομένοις, ὧν δὲ οὐκ εἰσὶ προσποιουμένοις.

24 *mendacio:* a lie told to the censors, whereby they might have been made to register him as citizen. For *irrepsisse in censum* cf. Arch. 10, l. 3 *in municipiorum tabulas inrepserint. Census* here is the register drawn up by the censors.

25 *obicitur:* not *obiicitur*; see my ed. of Arch. p. 73.

26 *durissimo bello:* an abl. of attendant circumstances; "when there was a severe war"; cf. n. on Arch. 3, l. 10.

cum Q. Metello, cum C. Memmio: note the omission of *et* before the second *cum*, which gives force and vividness to the statement; also the fact that all the clauses from *fatetur* to the end of the sentence are paratactically, not syntactically arranged, that is, they are merely put

side by side, and not linked together by particles; so in 38. Q. Metellus Pius (cf. Arch. 26) fought in Spain as pro-consul for eight years (76—71 B.C.). C. Memmius, one of Pompeius' best officers, and his brother-in-law (being married to a Pompeia), fought under that general against the followers of Marius in Sicily, and then against Sertorius in Spain, where he was killed under the walls of Saguntum in 75 B.C.

28 *ut:=ex quo* "from the time when"; *venerit*, not *venit*, because the prosecutor's view of the fact, and not the fact itself, is indicated. Pompeius came to Spain in 76, owing to the ill success of Q. Metellus Pius, and yet for some time had himself just as little good fortune. The war was indeed *durissimum* for the Romans.

29 *Karthagine: i.e. Nova* (Carthagena). *Karthagine esse opsessum* is the correction of Madvig for *K. isse possessum* (see Appendix).

30 *acerrimis illis proeliis et maximis:* note the order of the words, and cf. Arch. 3, l. 6 *conventu hominum ac frequentia.*

31 *Sucronensi et Turiensi:* Sucro, a river some distance S. of Saguntum, with a town called Sucro at its mouth, where a very great but indecisive battle was fought in 75 B.C. between Pompeius and Sertorius. This was the battle at which Sertorius declared he should have thrashed the boy (Pompeius) had not the old woman (Metellus) come up. Turia is a river lying about half-way between the Sucro and Saguntum, with the town of Valentia at its mouth. Here a great battle was fought between the combined forces of Metellus and Pompeius, and those of Sertorius (Plutarch, Sertor. 19).

§ 6.

32 *propria:* see Appendix. Cf. 6, l. 14; also Phil. 1, 5 *propria Dolabellae*, Pro Marc. 6 *nam bellicas laudes solent quidam extenuare verbis easque detrahere ducibus, communicare cum multis, ne propriae sint imperatorum*, Ligar. 27 *hoc est praecipuum Tuberonis*, Vat. 5 *tua, tua sunt haec omnia.*

pietas in: for reading see Appendix. Cf. De Inv. 2, 66 where Cic. speaks of *pietas erga patriam.*

P. 23.

1 *digna summo imperatore: i.e.* such as a great general ought to find in his subordinates.

pro: "in proportion to".

2 *non sunt in eius facto:* "depend, not on the act of him".

5 *in Cornelio:* "with reference to C.", "in the case of C." For this sense of *in* (which is comparatively rare) cf. De Or. 3, 36 *dicebat Isocrates se calcaribus in Ephoro, contra autem in Theopompo frenis uti solere*, Parad. 3, 1 *petulans in virgine*, Caesar B.C. 1, 85 *in se uno non servari quod omnibus sit datum.* In Propertius 1, 1, 17 and 33 *in me* ought properly to be taken in this way, not as though *me* were in the accusative. Cf. 9, p. 24, l. 5.

causa ipsius: "the plea he himself makes"; so 5, l. 18 *causae.*

5 *poena:* note the omission of a particle like *sed* or *tamen* to mark the contrast. The omission of an adversative particle is considerably rarer than that of a copulative particle, of which we had exx. in 5. Cf. Fam. 9, 26, 4 *non multi cibi hospitem accipies, multi ioci;* also Arch. 3, l. 8.

6 *laedatur:* "is slighted"; cf. Rosc. Am. 142 *si quis est qui et se et causam laedi putet, cum Chrysogonus vituperetur.*

7 *innocentissimi ... praestantissimi:* note how artfully the epithets are chosen.

8 *in iudicium vocatur:* so 48, l. 29 and *in crimen vocari* in 5, l. 22.

9 *hunc:* "my client".

12 *nullius laboris etc.:* the expressions here are hyperbolical, but Balbus had served under Caesar as *praefectus fabrum* both in Spain (61 B. C.) and in Gaul (58 B. C.). See Introd. p. 6.

15 *crimen:* "foundation for a charge". Observe that in Cic. and early Latin *crimen* never has exactly the meaning of our word *crime*, but means either a *charge*, or, as here, the criminal act viewed as foundation for a charge. Cf. Verr. 2, 162 *non erat in hoc crimen ullum*, ib. 3, 188 *non est in hoc crimen.*

§ 7.

ubi igitur est crimen? the same, or nearly the same words in Flacc. 68, Pro dom. 46, Sest. 80.

16 *huius crimen?* The gen. is noticeable—"a charge with which my client has anything to do?" Cf. Rab. Post. 29 *nolite regis iniuriam huius crimen putare*, Verr. 4, 91 *istius culpam crimenque.* Observe the omission of *ne* or some other interrogative particle, which is common in short, abrupt questions.

17 *honos:* this, not *honor*, is the true form in Cic.

putanda est: as *honos* is subject to the verb, *putandus* might have been expected, but cases of attraction like this are not uncommon; thus De Leg. 1, 23 *ut iam universus sit hic mundus una civitas communis deorum atque hominum existimanda*, De Div. 2, 90 *non enim omnis error stultitia est dicenda.* Sometimes the verb agrees with the predicative noun and not with the principal noun, in number, when these two nouns are of different numbers; thus Pis. 8 *initium fuit ludi Compitalicii.* Cf. 15, p. 26, l. 7; 62, l. 25.

18 *actione:* an ablative of respect or limitation; "so far as the prosecutor's contention is concerned". So Liv. 35, 31 *specie—re uera*, and often; cf. 46, l. 7.

19 *minus:* a modified negative, as in 2, l. 10.

20 *ita:=talia praemia;* this should be added to the exx. in Nägelsbach's Stilistik § 145, 2, of adverbs which serve the purpose of object to transitive verbs.

21 *liceret:* implies the legal, technical, right to do a thing, *oporteret* the moral right.

factum diceretur: remark the omission of *esse*, and cf. n. on Arch. 5, p. 23, l. 3.

22 *esset...repudianda:* Cic. seems often to take pains to separate by a considerable space parts of the verb *esse* from the participles or gerundives to which they belong. Cf. Att. 5, 1, 3 *quae fueramus ego et tu inter nos de sorore in Tusculano locuti*; also below, 21, l. 14.

23 *a vobis:* the noun or pronoun denoting the agent is, as a rule, put in the dative case after a gerundive. The substitution of the ablative with *ab* is comparatively rare, and of the instances found the great majority occur in Cic. Roby (Pref. to Gram. Vol. II. p. lxxv.) gives a list, which is however capable of considerable extension; additional exx. will be found under *ab* in Merguet's Lexicon to the Speeches of Cic., in Jordan's n. on Caec. 33, and in Madvig's n. on Fin. 2, 30. The usage is probably not nearly so rare outside Cic. as Roby's list would make it appear. The same scholar in § 1147 of his Grammar explains many examples by the desire of the writer to avoid ambiguity, many others by the desire to balance clauses neatly, while he allows that many passages will come under neither of these heads. Our present passage is certainly one of this last class. My own belief is that Cic. in using the abl. with the prep. wished to declare the activity of the agent more emphatically than was possible by using the dative. This observation will cover all the instances.

§ 8.

nunc vero: "but as things are".

25 *gravius:* "a more serious matter".

27 *etiam si licet:* "even if it be admittedly lawful"; *liceat* would have given a different meaning—"even if it were to chance to be lawful".

§ 9.

29 *hic ego nunc cuncter:* for the reading see Appendix. *Cuncter* is the so-called deliberative subjunctive.

30 *abest:=deest, deficit*, in which sense *abesse* takes the dat. not uncommonly. Halm (on Sull. 14, where the reading *afuerim* given by MSS is quite right) makes a slip when he says that Cic. does not use *abesse* with dat.; cf. N. D. 2, 37, De Or. 2, 281, Leg. 1, 5 *Huic homini: sc. Pompeio.*

haec: "this privilege" (of conferring the citizenship on whom he pleases). There is no need to read *hoc* (as some edd. do), since the Latins constantly used the neut. plur. of pronouns where we should be inclined to use the sing.; so also the Greeks used *ταῦτα* for *τοῦτο*. Observe how Cic. tries to break the strength of the opposite case by setting in a brilliant light the achievements of Pompeius, before he attacks the legal question involved. All this part of the speech is really *extra causam* (cf. n. on Arch. 31, l. 28). For Cic.'s motives in thus eulogising Pompeius, see Introd. p. 10.

tribui et concedi: so *tribui concedique* in Arch. 4, l. 16, where see n., also cf. the frequent conjunction in Cic. of *remittere* and *concedere*, as Planc. 73, Verr. 5, 22 and 47, Phil. 12, 16; add Verr. 2, 1, 32 *date atque concedite*, ib. 3, 194 *concedo et largior*. These passages illustrate one

prominent weakness of Cic.'s prose style—his tendency to repeat a statement in slightly different terms; so 9, p. 24, l. 4 *casus eventusque*, 18, p. 27, l. 5 *labor et industria*.

31 *ususne rerum? sc. bellicarum:* "experience in military service?" So *res gestae* generally means "military history".

qui etc.: the sentence is really elliptic; supply something like *eine abest usus rerum?* This ellipse gives an abrupt energy to the question, which makes it a favourite rhetorical device. Cf. Acad. 2, 115, also Liv. 3, 39, 9 *cuius illi partis essent rogitare. Populares? Quid enim eos per populum egisse? Optimates? qui anno iam prope senatum non habuerint?*

pueritiae etc.: cf. Imp. Cn. Pomp. 28 (the whole of which passage should be closely compared with this) *qui extrema pueritia miles in exercitu fuit summi imperatoris, ineunte adulescentia maximi ipse exercitus imperator.*

33 *minus saepe etc.:* cf. Imp. Cn. Pomp. 28 *plura bella gessit quam ceteri legerunt.*

P. 24.

3 *genera bellorum:* cf. Imp. Cn. Pomp. l. l. *quod denique genus esse belli potest in quo illum non exercuerit fortuna rei publicae?*

an: following on *ususne* above.

4 *cui etiam ipsi: etiam* is to be taken not with *cui* but with *ipsi* which agrees with *casus*.

non duces sed comites: i. e. his plans determined the course of events, and were not themselves determined by it. *Dux* and *comes* are thus often contrasted, *e.g.* Flacc. 5, Marcell. 11, Lael. 96 (in some edd.).

5 *in quo uno:* n. on 6, p. 23, l. 5.

fortuna: in choosing a commander the Romans attached great importance to his reputation for good luck. Sulla prided himself on the title *Felix*. For the *felicitas* and *egregia fortuna* of Pompeius see Imp. Cn. Pomp. 47, 48, 49.

fortuna certavit: cf. Arch. 24, l. 10.

7 *pudor etc.:* Pompeius is brilliantly contrasted with the corrupt generals of the time in Imp. Cn. Pomp. 36 sq.

8 *requisita est: = desiderata est*; "was ever looked for in vain?"

provinciae: Cic. very frequently alludes to the abstention of Pompeius from the almost universal practice among generals of the time, of robbing the provincials. He remarks especially (Flacc. 57) that when P. captured Jerusalem he took nothing from the Temple.

9 *liberi populi:* here = peoples who governed themselves, under treaty with Rome, obeying neither kings nor the Roman provincial rulers; cf. Introd. p. 17.

10 *sanctiorem:* Arch. 18, p. 28, l. 9.

11 *sperando—optando: sperare* is to look forward to what is practicable, and may be attained in the ordinary course of events, *optare*

to look forward to what can only happen by some extraordinary stroke of good fortune. Cf. Att. 8, 15 A, 1 (a letter written by Balbus himself) *velim idem Pompeius faciat, qui ut adduci tali tempore ad ullam condicionem possit, magis opto quam spero*, cf. ib. 11, 19, 1 *cogis me sperare quod optandum vix est*. Hence *optare* is sometimes "to indulge in wild dreams", as in Acad. 2, 121 *somnia haec censet Democriti non docentis sed optantis*, where see my n. Translate here "have imagined either in their hopes or their dreams".

§ 10.

12 *auctoritate:* on the *auctoritas* (personal influence) of P. see Imp. Cn. P. 43.

his tantis: n. on Arch. 16, l. 11.

13 *laudibus:* "merits"; n. on Arch. 14, l. 12.

14 *dignitatis*. a descriptive or explanatory or defining genitive; paraphrase thus, "gave rewards, that is to say, a very splendid rank". See exx. in Roby's Gram. §§ 1302—1306; cf. also 4, l. 6; 54, l. 27, and Arch. 28, l. 19, *hanc laudis et gloriae mercedem* (so Tusc. 1, 34 and 3, 12), Caes. B. C. 3, 59 *praemia rei pecuniariae. Praemia*, the plur. for the sing., is not uncommon; cf. 23, p. 29, l. 6.

15 *recusanti:* "in spite of his protests". *Recusare* (*causa*) is properly to allege reasons against some one, hence to enter a protest (not necessarily a refusal), as also in 17, l. 28. The phrase was originally legal: see Caec. 81 and 82, with Jordan's n. The historical reference is to the appointment of Pompeius, with extraordinary powers, to take command in the East against the pirates. This command P. pretended to dislike (Dio Cassius 36, 8), a pretence which had the effect of increasing the popular clamour for his appointment and rendering easier the adoption of the law which conferred on him such unparalleled powers.

16 *ut id agatur:* "that the question at issue is".

17 *an vero: vero* adds emphasis to the question—"or whether indeed". When *an* is followed by *vero* it is generally separated from *ne* by a wider interval than is the case here, and in the greater number of instances the *ne* (when expressed) and the *an* are in different sentences (so Arch. 30, p. 31, l. 31). Tolerably close parallels are Sulla 90 (*ne—an vero*), Cluent. 94 (*ne, an, an vero*), Verr. 3, 194 (*utrum—an vero*).

18 *id est:* this phrase often, as here, introduces a stronger for a weaker statement. Cf. 24, l. 18 *libertate, id est, civitate.*

19 *non—nonne:* this sequence is less common than *nonne—non* (Rosc. Am. 98, Sull. 7, Cat. 1, 27); it is found in Mur. 81.

§ 11.

20 *audivi de:* in Cic. *audio* is commonly followed by *de* or *ex*, more rarely by *ab*.

20 *puer:=cum essem puer*; hence the emphatic position at the end of the clause.

Q. Metellus: i. e. Numidicus, cons. 109 B. C., who conducted the war against Iugurtha. The trial referred to (for misappropriation of public moneys) probably took place after he had governed a province as pro-praetor, but some authorities place it after his return from Africa. The same story is told in Att. 1, 16, 4, Val. Max. 2, 10, 1. The designation Q. Metellus L. F. appears in Fam. 1, 9, 16.

21 *repetundis:* the form of the gerundive in *undus* was archaic in Cic.'s time, and occurred chiefly in those legal and religious forms where old modes of writing linger longest. In this particular word the *u* seems to have been retained in later times also (Neue, Formenlehre 2, 458). Cf. Appendix, n. on 4, l. 18 *gerendus*.

22 *patriae salus:* in 100 B. C. the demagogue Saturninus passed by illegal violence an agrarian law which contained a proviso that the Senate should within five days swear obedience to its provisions. Metellus alone refused the oath, and when Saturninus brought forward a law to drive him into exile, voluntarily withdrew, rather than risk disturbances in the city. Cic. is never weary of praising Metellus for his patriotism, and constantly calls attention to the similarity of the circumstances attending his own exile. Cf. Sest. 101 *de civitate maluit quam de sententia demoveri*, Pis. 20 *ne armis confligeret cedendum esse duxit*, Post Red. in Sen. 38 *cum vim caedemque fugisset*.

23 *igitur:* used here like Eng. "then" or "well" to resume the narrative, broken by the interposition of the words from *ille* to *maluit*. This usage is exceedingly common in Cic., who also thus uses *ergo*, *autem* and *sed*.

24 *causam dicente:* when the *parties* to a trial (and not the counsel employed) are in question, this phrase is always used of the *defendant*, the crime being generally indicated (as here and Cluent. 147; cf. below, 48, l. 31) by an abl. with *de*, but sometimes by a genitive, as *capitis* (Quint. 95).

ipsius: n. on 6, p. 23, l. 5; *eius* here would have been less emphatic.

tabulae: "accounts" for public money disbursed by him during his provincial governorship.

circumferrentur: "were being handed round"; so in Att. 1, 16, 4 and Verr. 2, 104 *cedo, quaeso, codicem; circumfer, ostende*.

inspiciendi nominis: the word *inspicere* is a *vox propria* in connexion with the official examination of accounts; *e.g.* Verr. 3, 171 *posco rationes: inspicio litteras*, so Liv. 6, 27, 8, Plin. Ep. 10, 48, 1. *Nominis=* some particular entry; *nomen* properly means the name, at the head of a page in a ledger, of a person with whom business has been done; it often means a *debt*, sometimes a *debtor*.

25 *equitibus:* from the time of C. Gracchus to that of Sulla, with very slight intervals, the *iudicia* were in the hands of the *equites* (Verr. Act. Prim. 38 *cum equester ordo iudicaret annos prope* L *continuos*).

26 *neminem:* notice the force the word acquires by its separation from *iudicem*. Cic. might have written here *qui non* for *quin*; it seems impossible to discover any rule for the use of these expressions.

27 *quod...rettulisset:* this clause is really the subject of the verb *videretur*. It is worth noticing how the single clause *ne dubitasse quisquam videretur* is broken up by the insertion of the two clauses *quod...rettulisset* and *verumne...esset* (Nägelsbach § 152).

29 *nos:* for the form of the sentence cf. n. on Arch. 17, l. 25.

de consili sententia: "after consulting his advisers"; so in 19, l. 25. At Rome custom in all cases, and law in many cases, required that decisions on important matters should not be taken by public officers or even by *patres familiarum*, without consultation with those best qualified to advise them. Hence Cic. says severely of the commissioners to be nominated under the agrarian law of Rullus—*orbis terrarum cognitio datur sine consilio* (Leg. Agr. 2, 33). Skilled lawyers were in request for every *consilium*. The phrase *de consili sententia* was a regular part of every decree issued by a praetor or provincial governor.

31 *acerbissima diligentia:* "with the harshest minuteness"; cf. for the meaning of *dil.* n. on Arch. 9, l. 24.

§ 12.

32 *quidam:* Xenocrates the Academic philosopher (lived about 396—314 B.C.). The story is told in Att. 1, 16, 4, Val. Max. 2, 10, 2. Cic. does not mention his name here, because the Roman jurors objected to a display of Greek learning by an advocate (cf. Arch. 1, l. 5, n., De Or. 2, 4).

33 *publice:* "in court".

ut mos Graecorum est: it must be remembered that in the Athenian legal procedure the evidence was all reduced to writing ere the case came before the jury, who as a rule heard no oral evidence. The deposition of the witness being read over to the jury, he went up to the altar (*πρὸς τὸν λίθον*) to affirm formally on oath all that was contained in it. [*Arae*, like *altaria*, is often used of a single altar.] In Roman trials oral evidence was the rule, and the witness took an oath in court before giving evidence. The words *ut mos Graecorum est* call attention to this difference between the Roman and the Greek mode of giving evidence.

P. 25.

2 *ne is iuraret:* this is really a bit of *oratio obliqua*.

viri: i.e. Xenocrates; dependent on *fidem*.

noluerunt etc.: "would not allow it to be thought that credibility was better secured by a religious observance than by truthfulness of character". With *constrictam religione* cf. Sest. 16 *constrictam legum catenis*.

4 *nos etc.:* Cic.'s argument is that *veritas* is greater than *religio*; the Athenians refused to doubt the *veritas* of Xenocrates; shall the Romans doubt the *religio* of Pompeius?

§ 13.

7 *si scientem:* complete aposiopesis; no attempt is made to resume the construction. *O nomen:* "alas for the glory".

9 *ut eius gloriae, etc.:* "that his renown is a household word to the very limits of the national empire". It is impossible to represent literally the metaphor in *domicilium gloriae.* In De Or. 1, 105 Rome is called the *domicilium imperi et gloriae*, in Agr. 2, 97 Capua is the *d. superbiae.* For *imperi finibus terminetur* cf. Arch. 23, and in Cat. 4, 21 *Pompeius, cuius res gestae et virtutes eisdem quibus solis cursus regionibus ac terminis continentur.*

11 *testes:* so Imp. Cn. P. 31 *testes...omnes exterae gentes ac nationes. Cn. Pompei...virtutis:* Cic. generally when he makes one gen. depend on another, softens the harshess of the construction by separating the genitives, as here; but *eius*, (as in *eius gloriae* above; cf. n. on 41, l. 22) *huius, illius* are often allowed in juxtaposition with the other genitive. In such passages as Brut. 163 *Scaevolae dicendi elegantiam*, Fin. 1, 14 *Theophrasti orationis ornamenta*, the words following the proper name coalesce to form a single idea, and the harshness of the juxtaposition is thus mitigated.

12 *mutae regiones:* "voiceless tracts, and lands at the end of the world!"

14 *sedes:* this implies an *inhabited* place, while the meaning of *locus* is general.

15 *exstent:* the subj. because the *class* is contemplated; "what spot of such a kind that in it etc."

humanitatis: "culture" (Arch. 2, l. 20, and 3, l. 11) not commonly found along with robustness (*fortitudo*).

16 *impressa vestigia:* so metaphorically used in Or. 12 *sermonum in quibus Platonis sunt impressa vestigia.*

18 *neglexisse violasse rupisse:* note the climax, which recalls the famous *abiit excessit evasit erupit.*

§ 14.

19 *gratificatur:* "freely yields".

20 *quasi vero levioris sit:* for the reading see Appendix. The drift of the first part of the argument is this—"the prosecutor seems to think he has chosen the alternative most favourable to Pompeius, that knowingly to do an illegal act betrays a more worthless character than to be totally ignorant of what is legal". Cic. then indicates that in his opinion Pompeius would be *levior*, more worthless or contemptible, had he done wrong ignorantly, than if he had done it wittingly.

tanta re publica: "such important public business" (as Pompeius had in Spain); the meaning cannot be here "such an important commonwealth" (as Rome).

23 *non scire:* less usual than *nescire* or *haud scire*, and due to the vicinity of *omnino*; on the reading, see Appendix. Cic. says (Or. 157) NON SCIRE *barbarum iam videtur, nescire dulcius*, yet in Flacc. 59 the MSS give *quis enim erat qui non sciret*, and the expression occurs in Caesar B. G. 1, 44, 9, in a letter of Trebonius (Fam. 12, 16, 3), in (Cornificius) Ad Her. 4, 37, also in Terence and Seneca Rhet. (qu. by Krebs-Allgayer, Antibarbarus s.v. *scio*); thus the dictum in the Orator is too sweeping.

24 *acerrimum et maximum:* so 5, l. 30.

25 *ius illius populi: i.e.* that Gades was a *foederata civitas.*

interpretationem: the legal construction to be put on the treaty: so De opt. gen. or. 20 *legum int.*, Off. 1 33 *iuris*, and often (cf. 20, p. 27, l. 30). Madvig (Opusc. 2, 21) points out that *interpretationem* can have here no reference to *translation* as some edd. have supposed, because all *foedera* were written in Latin.

26 *non tenebat:* "was not in possession of", "had not grasped". So used in Acad. 2, 26, where it translates καταλαμβάνεσθαι.

27 *mediocres:* "ordinary".

29 *librarioli:* the diminutive here conveys contempt; "poor clerks" or "the meanest clerks", but in Att. 4, 4 B, 1 *librarioli* is merely colloquial Latin for *librarii*. The *librarii*, especially employed in copying books, were generally slaves.

scire profiteantur: for the omission of *se* before *scire* cf. Acad. 1, 18 *quid me, inquam, putas, qui philosophiam iam professus sim populo nostro exhibiturum?* It is beyond question that Cic. often omits the pronouns *me te se eum eos* before an infinitive, when no special emphasis is required, yet recent editors (most frequently Baiter, but in a less degree also Halm and Madvig) have tampered with nearly every passage where such an omission occurs. The verbs after which the omission is found are usually verbs of thinking or speaking. Material for studying the matter is contained in a note of Kühner on Tusc. 1, 60.

§ 15.

30 *in omni:* the difference between *excellere in* and *excellere* with simple abl. may be seen by comparing *exercere*, for which see my note on Arch. 28, l. 22.

33 *scientiam in foederibus*. this is an excessively rare construction. Either *foederum* or the addition of *interpretandis* (as in Phil. 9, 10 *in legibus interpretandis scientia*, like Acad. 2, 3 *prudentia in constituendis civitatibus*) would have been natural. *Interpretandis* is indeed found in some old edd. The constr. is the more remarkable because the phrase *sciens in aliqua re* is not used. Its harshness may be softened by taking *praestabilem in* closely together = *quae excellit in foederibus pactionibus condicionibus:* the last two words are mere rhetorical variations on *foederibus*, from which they are not intended to be sharply distinguished in meaning; cf. 29, l. 16. If strictly used *pactio* would mean an agreement concluded by a general with the enemy without distinct authorisation from the Roman people; if such an agreement related to temporary matters, as for instance a truce, it would be in itself valid, but if it related to a permanent settlement it would be invalid without formal ratification. The *foedus* moreover was concluded by the *fetiales* with elaborate religious formalities, while the *pactio* was a simple verbal or written agreement. *Foedus* and *pactio* are joined as here in 29, l. 17, also De Or. 1, 159, Caec. 51; the following passages (qu. by Jordan on Caec. l. l.) will shew that for rhetorical purposes

and in metaphorical applications Cic. uses the two words indifferently—viz. Post Red. ad Qu. 13, Pis. 28, Pro domo 129, Sest. 33. *Condicionibus* (for spelling see Arch. p. 73) "terms" offered to or imposed upon one general by another; here almost "legal status".

P. 26.

2 *belli iure atque pacis:* this is equivalent to "international law" as understood by the Romans and superintended by the *fetiales;* hence *ius fetiale* (Off. 1, 36 and 3, 108, Liv. 1, 32, 5) has the same sense, but not *ius gentium*, which has often been confounded with it, and has quite a different scope (see Maine, Ancient Law, ch. 3). Cf. 45, p. 38, l. 3, Liv. 5, 27, 6 *sunt et belli sicut pacis iura*, so 24, 33, 3.

nisi forte: introduces, as usual, an objection presumed to be absurd.

3 *umbra:* often used of the sedentary life as opposed to the life of exertion; so Mur. 30 *cedat forum castris, otium militiae, stilus gladio, umbra soli*; so the *umbracula* of scholars are contrasted with the *sol* and *pulvis* of practical men in De Leg. 3, 14, Brut. 37; cf. also *umbratilis vita, exercitatio*, σκιαμαχεῖν, σκιαμαχία, Plat. Rep. 556 D πένης ἡλιωμένος —πλούσιος ἐσκιατροφηκώς. Observe that the only proof Cic. offers of Pompeius' familiarity with international law is the improbability that he should be ignorant of it. Cf. § 45.

4 *litterae:* a mere oratorical variation on *libri* above.

6 *causa dicta est:* so Arch. 8, p. 23, l. 33.

temporum etc.: "because I have regard more to the faults of our age than to the nature of the trial".

7 *haec:* not *hoc*; an attraction of the same sort as that above in 7 l. 17, and below in 62, l. 25. So Hor. Ep. 1, 1, 60 *hic murus aheneus esto, nil conscire sibi*; cf. Roby § 1068.

8 *virtuti invidere:* so Hor. Od. 3, 24, 31 *virtutem incolumem odimus: sublatum ex oculis quaerimus invidi.*

florem infringere: so Laberius (Ribbeck 115) *florens cacumen nostrae famae frangere.*

§ 16.

9 *abhinc annos:* this accusative of time presents a difficulty, since it seems used without any reference to duration. Yet it appears to be an established fact that with *abhinc* the ablative, which one would expect, is comparatively rare; though Mr Roby's statement (§ 1091) that it only occurs twice in Latin (Verr. 2, 130, Plaut. Most. 2, 2, 63) is inexact. The fact is the more remarkable, because such expressions as *ante sex annos* for *annis, post quartum diem* for *quarto post die*, are first found in Livy (not Tacitus as Nipperdey on Ann. 1, 62 and Krebs-Allgayer s. v. *ante*, incorrectly state—see Weissenborn on Liv. 31, 24, 6). The peculiar usages *post diem tertium eius diei* and *ante diem tertium* are the only exceptions (Att. 3, 7, 1). The only explanation seems to be that there is an idea of movement contained in the expression—"if P. going back over a space of 500 years, had then lived". With regard to the

phrase with *abhinc* observe (*a*) that it is much rarer than the similar phrase with *ante* (*e. g.* Tacitus has often *ante*, never *abhinc*), (*b*) that the numeral expressed must be cardinal, not ordinal, such an expression as *abhinc tertium diem* for *tres dies* being inadmissible, (*c*) that the reckoning never has reference to future time, (*d*) that *abhinc* always *precedes* the words which measure the time, though the numeral sometimes precedes, sometimes follows the noun, *a. dies III* or *a. III dies* being both good, but not *dies a. III* or *dies III a.*

10 *fuisset* := *vixisset. Adulescentulo* = *cum a. esset*; cf. *puer* in 11, l. 20; also 63, p. 45, l. 1.

11 *equite Romano: i. e.* before he had held any office entitling him to admission into the senate. Pompeius' early commands were conferred on him by Sulla, and he actually enjoyed a triumph without having held office, a thing previously unknown in the history of Rome. P. became consul in 70 B. C. without passing through the lower offices.

saluti: for dat. cf. Cluent. 67 *auxilium capiti et fortunis petere.*

expetisset: subj. either merely for the sake of symmetry with *fuisset* or because *si* covers all down to *decorasset*; thus the real acts of P. are for the moment regarded as hypothetical, being transferred to an unreal Pompeius.

12 *cuius res gestae peragrassent:* put for *qui rebus gerendis peragrasset*; cf. 13, l. 9.

cum clarissima victoria: "ever attended by glorious victory". *Terra marique* must be taken closely with *victoria.*

13 *tres triumphi:* P. triumphed first in 81 B. C. nominally over the African prince Hiarbas, who was allied with Ahenobarbus, who held the province for the Marian party; next in 71, nominally over the native Spaniards, really over Sertorius and Perperna; again in 61, after his great achievements in the East.

15 *singularibusque:* see Appendix.

si nunc: a copulative particle like *et*, or a resumptive particle like *igitur*, is wanted here. Possibly *et* ought to be inserted before *si* (cf. 18, p. 27, l. 4 and 20, p. 28, l. 6); it would easily fall out, owing to *et* at the end of *decorasset.*

17 *nemo profecto:* for the speaker to answer a rhetorical question like that which precedes seems to a modern to weaken rather than to strengthen its effect; but the practice is regular with ancient orators, both Greek and Latin. So in 32, l. 32.

18 *niterent:* for reading see Appendix; Baiter qu. Liv. 3, 12, 5 *L. Lucretius recenti gloria nitens.*

19 *audita virtus:* = *virtus de qua esset audita*; cf. n. on Arch. 28, l. 16; also below, 47, l. 19 *legisset.*

20 *visa atque:* see Appendix.

voce: not *vocibus*, on the principle commonly, though not universally, observed both in Greek and Latin, that if a number of persons are

mentioned and then some thing common to them all, that thing is put in the sing. not the plur.

20 *laedetur:* above, 6, p. 23, l. 6.

§ 17.

21 *iam:* unusually late in the sentence; cf. Cluent. 16 *tulit hoc commune dedecus iam familiae.*

22 *memoria:* not *memoriis*, the plur. not occurring till late Latin.

tenetote: so in 65, p. 46, l. 5, an example of the form of the imperative called future by grammarians. The attempt to distinguish *tenses* in the Latin imperative forms is perfectly futile, as any one may see who will examine the exx. qu. by Neue, Formenlehre 2, 401 sq. (ed. 2). It is only possible to say that the forms in *to*, *tote* convey a somewhat stronger and more formal command or entreaty than the others.

23 *lege:* fully explained in 19; *foedere:* that binding Rome and Gades; *exemplis:* 2, l. 17; *perpetua consuetudine:* only a more emphatic way of describing the *exempla*, which constitute a particular course of action never departed from by the State.

24 *renovabo:* "will recall to your minds", "refresh your memories concerning"; a common meaning of *renovare*, as in Acad. 1, 14, where see my n.

26 *pro facultate etc.:* "in a way worthy of his ability and his loyalty" (to his clients).

diligentissime: "most minutely".

27 *ornamentis:* so *ornatius* 2, l. 19.

28 *ad dicendum:* beware of construing *ad* with *reliquit*; it depends on the adjectives *novi*, *integri*; the use of *ad* after adjectives is particularly common in Cic.

recusante: n. on 10, l. 15.

29 *quasi...quendam:* these words soften down *perpoliendi*, a term whose unqualified meaning is too strong for Cic.'s modesty; cf. n. on Arch. 2, l. 21.

30 *extremum laborem:* cf. *extrema manus* "the finishing touch"; also 4, l. 6 and Introd. p. 15.

31 *operam ac munus:* so Cic. joins *opus* and *munus* in Leg. 2, 6.

§ 18.

32 *aggrediar:* the distinction between subj. and indic. after *ante quam*, *prius quam* (which is not usually clearly drawn in grammars) is this; the ind. merely points out the *fact* that of two events one succeeds the other in time, while the subj. declares that their succession is *willed* by a person. Since no will can affect the order of events after their occurrence, *post quam* never takes the subj.; in the rare exx. where the verb in the same clause is in the subj. there is some special reason for it, apart from *post quam*. Observe that when *ante quam* and *prius quam* go

with the *present* tense, the ind. is far commoner than the subj., but when the *imperfect* or *pluperfect* follows, the indic. is rare (scarce found, if at all, in Cic.), while with the perf. the two moods are about equally common. With our passage cf. Off. 1, 73 *in omnibus negotiis prius quam aggrediare, adhibenda est praeparatio.*

ius: "the point of law involved"; so 2, l. 16.

33 *communi condicione:* "a circumstance which affects one and all of us". For *omnium nostrum* see n. on Arch. 22, l. 22.

P. 27.

1 *commemorandum:* "must be mentioned", *not* "recalled to mind"; see n. on Arch. 29, l. 29. This simple verb *memoro* is exceedingly rare in Cic.

3 *nascendi initio:=ortu,* "at birth". For the periphrasis cf. Seneca, De otio Sap. 4, 1, (31), quoted by Nägelsbach, *ea res publica cui nos adscripsit condicio nascendi.*

4 *deberet:* "were bound"; the present *debet* which some read would imply "if the supposition is, in fact, well founded that, etc." Here however and below (l. 6) *essent*, the supposition is looked on as too absurd to be even imagined admissible.

5 *quos...illustravit:* so Arch. 21, p. 29, l. 2 *libri...L. Lucullum inlustrant.*

labor et industria: these words, differing very slightly in meaning (*labor* being rather work, *industria* rather the *spirit* which prompts to work), are frequently thus joined, as Imp. Cn. Pomp. 1 (*in perferendo labore industriam*), ib. 29, Nep. Att. 12, 3. So *industria* and *diligentia* in Att. 15, 13 A, 3, Nep. Cat. 3, 4.

7 *viris bonis:* this passage shews the absurdity of the rule which some scholars set up, that when the epithets *boni*, *optimi* follow the noun *viri* they always imply contempt, while if the epithets are sincerely used they precede the noun. (Cf. Kühner on Tusc. 3, 50.)

9 *genere:* "descent". *Ex:* "starting from".

10 *consecuta est:* notice the verb agreeing with *humanitas* only of the three nouns. For *multorum humanitas.....consecuta est=multi humanitate consecuti sunt*, cf. 16, l. 12 *res gestae...peragrassent.*

11 *honores:* the plur. comes in awkwardly, among the singular nouns, particularly as *summam* precedes. Moreover Balbus could not be said to have held the highest offices (which is the only meaning *summos honores* can have) for he had not yet risen above the rank of *praefectus fabrum* in the army. Many years after this speech Cic. is shocked at the idea of an alien like Balbus intriguing for admission to the Senate (Att. 10, 11, 4). Probably therefore *honorem* ("public esteem") should be read.

13 *pudorem eius:* "a man of such honour".

§ 19.

13 *quod maxime petendum est:* "a request which it is most important to make, I do not make"; Cic. proceeds however to make it indirectly and all the more effectually.

18 *poeniendam:* see Appendix.

illud peto: for omission of *sed* or *tamen* cf. n. on 6, p. 23, l. 5.

20 *adiumento, impedimento:* predicative datives; many exx. in Roby, Gram. 2, p. XXXVII, XLVI. So *magno usui* in 24, l. 15.

22 *ea lege:* Introd. p. 11.

23 *ex senatus sententia:* the *senatus consultum* was a usual, though not a necessary preliminary for all laws; the actual consuls, however, were always expected to be *in auctoritate senatus, i.e.* obedient to the expressed wish of the Senate, and did not proceed to legislation without securing the Senate's approval.

24 *ita esse sanctum:* see Appendix.

25 *consili:* 11, l. 29.

singillatim: this form has more MSS authority here than *singulatim;* both seem to have been in use (Neue 2, 668, ed. 2).

26 *Pompeius dicit:* the circumstances in Arch. 8 are similar; cf. p. 24, l. 2 *Lucullus...dicit.*

27 *tabulae:* probably a formal and regularly attested document drawn up by Pompeius and deposited among the public records.

29 *fundus:* for the legal application of the word to the present case see Introd. p. 15. The word is probably not connected with *fundus,* a farm (with which πυθμὴν, Germ. *boden,* Eng. *bottom* are related; see Curtius, Greek Etym., Eng. Tr. 1, 326), but is derived from an original root *bhandh,* meaning to tie (Eng. *band, bond, bind*), from a weakened form of which (*bhidh*) without the nasal, come πείθω, πίστις, *fides, foedus* (Curtius 1, 325). *Fundus fieri* is therefore literally "to become bound", so to accept an obligation; hence it is equivalent to *auctor fieri* in Plaut. Trin. 5, 1, 6 *ut fundus pater sit potior, i.e.* a better security, or guarantor for a debt. Paulus (ex Festo) p. 89, 1 indeed explains the word by *auctor,* "*fundus quoque dicitur populus esse rei quam alienat, hoc est auctor*", *i.e.* "the nation is the guarantor of the title to any property sold on national account". The word scarce occurs out of this speech except in the two passages quoted and Gellius 16, 13, 6, who uses it as Cic. does.

venire in civitatem: "become a citizen"; so 29, l. 12; 44, l. 20 and *venire in senatum* in Att. 10, 11, 4, Flacc. 42.

§ 20.

o praeclarum: "here is a fine lawyer"; the interjection has quite a different force from that in 13, l. 7, where, be it observed, it is followed by the nominative, not the accusative case.

30 *correctorem atque emendatorem:* Phil. 2, 43 *emendatore et correctore,* Acad. 1, 13 *recentissima quaeque sunt correcta et emendata maxime.*

31 *civitatis:* here "constitution".

qui ascribat: qui causal, "since he etc."; *ascribat* "attaches to".

P. 28.

1 *imperitius:* the adverb, like *peritius* in 2, l. 17, *imperitissime* in 27, l. 1.

oportere: i.e. if they mean to get any advantage out of a particular law.

2 *foederatorum—liberorum:* see Introd. p. 17.

3 *totum hoc etc.:* "this whole practice" (*i.e.* that whereby *populi fiebant fundi*) "was ever grounded on this principle and this intention, that etc."

4 *iussisset:* a *lex* (strictly so called) is a *populi iussum*. When a law was voted the question put to the voters began *velitis iubeatisne.*

5 *socii...Latini:* Introd. p. 17.

6 *ea...eadem:* a pleonasm of a sort very common in Latin, and caused by the striving after clearness. So *ille* and *is*, or *ille* and *hic*, or *qui* and *ille*, or *qui* and *hic*, are often subjects of the same verb; so *ea* is repeated in 15, p. 26, l. 3.

haberemus: note the *continuance* of the action implied by the imperf., as opposed to the pluperfects.

7 *tamquam in fundo resedisset:* "had established itself as though on solid ground"; probably a bit of mistaken etymology, for which see above, on 19, l. 29.

ut tum: this *ut* is a mere repetition of *ut* before *cum iussisset* three lines above. *Ut* is often thus repeated for clearness' sake, when the clause with *ut* is broken up by the insertion of a new clause or clauses. See good exx. in Acad. 2, 48 and 139, Fin. 3, 43, Verr. 2, 17 and 90, also 4, 51, Liv. 5, 21, 15; 8, 6, 14; 22, 11, 4; 28, 9, 10.

8 *non ut:* very often a clause introduced by *ut* has depending on it another clause with *ut*, as here and 22. The usage is inelegant, like the similar repetition of the conjunction *that* in Eng., and cannot be reckoned to the credit of the Latin language. Exx. are Acad. 1, 24 and 45, also 2, 48, Fin. 3, 63 and 5, 24, Tusc. 1, 118.

deminueretur: Caes. B. G. 7, 332 *ne quid de iure aut de legibus eorum deminuisse videretur.* Trans. "not for the purpose of weakening the credit of our legal system". *Iure* here = *iure civili*, the whole Roman law, while in the next line it means a single legal principle.

§ 21.

10 *apud:* "in the time of".

11 *C. Furius etc.:* not known excepting from his law, which most authorities refer to the year 183 B.C. The purpose of the law was to keep the property of families together by restricting testators from making bequests of a larger amount than 1000 *asses* to any persons other than the *heres* or *heredes* (who took upon themselves all the privileges and

liabilities of the deceased, among them the liability to pay out of the property the legacies to those who were not *heredes*). The Voconian law (about 169 B.C.) aimed partly at the same object as the Furian, partly at preventing the accumulation of property in the hands of women; it provided (1) that no woman should be *heres* under a will, (2) that no woman, (3) that no man should receive more under a will than passed to the *heres* or *heredes*. The law applied only to testators who had been entered on the censors' lists as worth 100,000 *asses* or more.

13 *quas:* dependent on *ascire* understood, not on *voluerunt*.

Latini: these alone among the *socii* are here mentioned, and for these reasons. Their legal systems resembled that of Rome more to start with than did those of the other *socii*; they too, lying near Rome, felt more than others the convenience of assimilating their laws to those of Rome; hence they were more likely to adopt *leges de civili iure latas*.

14 *Iulia:* abl. "under the provisions of the Iulian law", for which see my ed. of Arch. p. 8.

est...data: n. on 7, l. 22.

15 *essent:* subj. because the sentence expresses the intention of the law-giver, reported by Cic.; *haberent*, not *habuissent*, because the citizenship, once acquired by a community under the law, must continue and could not be lost.

16 *contentio Heracliensium:* "discussion among the people of Heraclia". Heraclia was *civitas aequissimo iure ac foedere* (Arch. 6, l. 23); its *foedus*, concluded by Fabricius in the times of Pyrrhus, was almost unique (*prope singulare*, below, 50, l. 25). This is all the information we possess concerning this *foedus*. It was probably made in 278 B.C. (the second consulship of Fabricius; cf. 50, l. 25 *C. Fabricio consule ictum*), at a time when Rome still had a hard struggle with the Bruttii, Lucani and Italian Greeks, so that Heraclia could make good terms for its submission. It is fair to conjecture that the uniqueness of the treaty consisted partly in the omission of the clause contained in the other treaties with Graeco-Italian states, by which they were bound to furnish ships to the Roman government. As levies of troops were never required from coast towns, the Heracliotes would be free from all service in time of war, a freedom they would at once lose by becoming Roman citizens. The treaty with Neapolis was older, dating from 326 B.C. (Liv. 8, 26, 6) when the Campanian Greeks were able to give Rome welcome aid against the Samnites. The Neapolitans valued the connexion so highly that they resisted the most alluring offers from Hannibal (Liv. 23, 15). Why they were unwilling to adopt the Iulian law can only be conjectured. Perhaps the subjection to the census, the land-service with the legion, the exchange of old laws for the Roman law, the abolition of local politics, were among the chief things they disliked. [In 216 B.C. (Liv. 23, 20, 2) a number of Praenestines who had served in the Roman army, refused the franchise; it is also worth observing that M. Fulvius Flaccus, who in 125 proposed a law for the enfranchising the *socii*, also brought in a bill relating to those who should refuse the *civitas*; see Val. Max. 9, 5, 1.] In Fam. 12, 30, 1, Cic. speaks of a man

who, like Archias, was *ascriptus in id municipium* (*Neapolin*) *ante civitatem sociis et Latinis datam.*

19 *beneficio etc.:* "by a boon from us, not by any right of their own". The argument is "they have no right of such a nature that by exercising or refraining from exercising it, they can limit our power to confer the franchise on whom we please".

§ 22.

22 *videatur: i.e.* in the eyes of the Roman government, who, as Cic. implies, would not give an allied state the opportunity of taking any step which could limit the privileges or affect the policy of the Roman state.

ut statuant: n. on 20, p. 28, l. 7.

23 *quo iure: i.e.* which of the two principles, the new or the old.

24 *quaerendum esse videtur: i.e.* whenever any legal point has to be decided.

26 *noluerunt:* if the reading be right, the subject to this verb must be *maiores nostri* or something like it, to be supplied from *populus Romanus* above.

27 *senatui...populo:* the sanction of both these bodies had been given in the case of Balbus (19, l. 23).

28 *civitatibus: sc. foederatis. Sociorum* depends on *optimum quemque.*

30 *saepe:* note the position of this word in the sentence.

31 *asperis:* "stormy"; often of the sea, as Verg. Aen. 6, 351, Liv. 37, 16, 5.

§ 23.

32 *quae est ista etc.:* for the consecutive *ut* following on a clause which contains not, as is usual, a *statement*, but an *exclamation* (or *question*) cf. Lael. 96 *quanta illi* (*Scipioni*), *di immortales, fuit gravitas, quanta in oratione maiestas, ut facile ducem Romani populi diceres!*

P. 29.

1 *propugnatore:* "champion"; a military term; lit. "a fighter in the van". The very ancient Greek colony of Massilia, rival of Carthage for the commerce of the Mediterranean, entered at a very early date into friendly relations with Rome, which were never disturbed till 49 B.C. when the city was besieged by Caesar; (cf. Justin. 43, 5, 3 *cum Romanis prope ab initio conditae urbis* (*i.e. Romae*) *foedus summa fide custodierunt*). The bond of union between the two cities was common hostility to the Gauls and Carthaginians. When the Gauls captured Rome, the Massaliotes, it is said, helped Rome to pay the ransom, "*ob quod meritum et immunitas* (freedom from taxation when resident at Rome) *illis decreta, et locus spectaculorum in senatu* (=*inter senatores*) *datus, et foedus aequo iure percussum*" (Just. 43, 5, 10). For Gades see 34, l. 29. The exact date of the treaty with Saguntum was not known even to Polybius, who (3, 30) places it "several years before Hannibal's time". The probability is that the *foedus* was suddenly concluded by the

Romans when Hannibal began to extend the Carthaginian empire in Spain, in order to bring Saguntum technically within the clause of the treaty between Rome and Carthage made at the end of the first Punic war, which bound each power not to meddle with the allies of the other.

2 *auxilio etc.:* the readings here are dubious; see Appendix. *Commeatus* is acc. plur. not gen. sing. *Periculo suo*, at his own private risk, without the community to which he belongs being engaged.

5 *dimicationi capitis:=de capite* as in Prov. Cons. 23, cf. *dim. fortunae* in Sull. 77, Planc. 31, *vitae* in Planc. 77; a species of the so-called objective genitive particularly common in Cic. So Arch. 14, l. 24 *cogitatio hominum*, Tusc. 1, 23 *quaestione animorum* (=*de animis*), Mur. 11 *contentio dignitatis.*

nulla condicione: "on no terms whatever".

6 *praemiis huius civitatis:* "the prize of the Roman citizenship"; cf. 10, l. 14 *amplissimae dignitatis praemia.*

§ 24.

7 *grave in: in=erga*, as in 6, p. 22, l. 32. With this meaning *in* usually follows nouns and verbs, while adjectives take the dative; so *gravis* in Fam. 13, 76, 1, Liv. 7, 4, 3 *cognomen Imperiosi grave liberae civitati.* Tac. Ann. 1, 10 has both constructions in one sentence—*Livia gravis in rem publicam mater, gravis domui Caesarum neverca.*

8 *velint:* not *volunt*; "the class of persons who wish".

9 *communicare:* "to associate", a not very common use; cf. Acad. 2, 3 *privabo illum potius debito testimonio quam id cum mea laude communicem*, Fam. 12, 2, 1, Caes. B. G. 6, 19, 1.

11 *exclusos esse:* not *excludi*, "should be absolutely shut out".

12 *stipendiariis:* see Introd. p. 17. *Africa* etc. so 41, l. 12.

15 *hostes:* cf. 31, also Introd. p. 12.

17 *servos...publice donari:* the reference is probably not merely to the *volones*, slaves who gained their freedom by fighting for the state against Hannibal, but also to the body of *servi publici*, slaves belonging to the government and regularly employed in the administration, who while they remained slaves had many peculiar privileges and often received freedom for their services, as extant inscriptions shew (Orelli Inscr. 3017 sq., cf. Varro Ling. Lat. 8, 83).

18 *libertate, id est civitate:* citizens who had once been slaves never, however, had all the privileges of the free-born (*ingenui*). *Videbamus:* implies that the practice was once more common than at the time of the speech.

§ 25.

20 *patrone...foederatorum:* in sarcastic allusion to the practice whereby provincial communities placed their interests under the protection of great men at Rome as Gades had resorted to Balbus; cf. my ed. of Arch. pp. 7, 8. For the prosecutor see Introd. p. 11.

21 *statuis:* so 18, p. 27, l. 7 *constitui condicio.*

civibus: fellow citizens; *concivis* is not used in good Latin; so *συμπολίτης* scarcely occurs in good Greek.

ut: this goes with *ne liceat* in l. 25, the clause being most awkwardly broken by the insertion of other clauses, one containing another *ut*. So 27, l. 21.

22 *Magni armis adiutoribus tuis: Magni = Pompei. Adiutoribus tuis* is an ablat. of attendant circumstances (ablative absolute) for which cf. n. on Arch. 3, l. 10, and for the expression 38, l. 20 *adiutoribus illorum civibus* and 26, l. 5; for the juxtaposition of ablatives cf. Font. 44 *multis et firmis praesidiis vobis adiutoribus isti immani barbariae resistemus*, so Leg. Agr. 2, 16, and below, l. 31. *Tuis = Gaditanis*; *mei, tui, nostri, vestri* are often so used without *cives*.

24 *senatu, imperatoribus:* the sanction of the *comitia* was theoretically necessary (Introd. p. 11, 13), but is here evidently regarded as practically unimportant. Halm is probably right in inserting another *ut* after *etiam*.

28 *inferret:* "should thrust himself into".

auxiliis: a regular name for contingents of infantry supplied to the Roman army by the allied states.

29 *liceret:* dependent on *ut* to be supplied from *ne* above, just as *quisque* sometimes has to be supplied from *nemo* (Hor. Sat. 1, 1, 3, Cic. Or. 3, 52). Perhaps however Cic. really wrote *ut nobis liceret uti*.

ne quis...et...et: usually in a negative clause *aut* takes the place of a single *et* (as in Arch. 2, l. 18) and *aut—aut* or *neque—neque* that of *et—et*, unless the words connected by the two conjunctions are intended to be so closely united as almost to form a single idea.

31 *periculo suo:* above, l. 3.

graviter...iure: after an adverb it would be more natural and usual to find *nec iniuria*.

33 *paterna:* the reading is doubtful; see Appendix.

§ 26. P. 30.

4 *rata esse etc.:* "can have no validity".

nihil magis: irregularly put for *nihilo magis*; Cic. and the best writers generally use *nihilo multo paulo eo tanto quanto etc.* to denote the measure of excess with comparatives, not the corresponding accusatives. Livy is the first writer who commonly uses the accusatives. *Nihil* therefore must here be taken as an adverbial accusative = *non*.

6 *versari in:* "to engage in".

7 *post genus hominum natum:* a variation from the usual *post homines natos* = "from the beginning of the world".

9 *obiecerint:* note the tense; the meaning is "who actually have exposed their lives". *Qui obicerent* would be "who were of such a nature as to expose etc." Cf. Kennedy, Gram. 205.

11 *interdicto: sc. omni praemio.* Cf. n. on 25, l. 29.

§ 27.

12 *imperitissime:* cf. 20, p. 28, l. 1.

13 *fundis:* a gerundive ought to follow, in agreement with *fundis*; the omission is due to the fact that *fieri* (20, p. 28, l. 1) has no gerundive.

16 *noster iste magister:* "this instructor of ours"; cf. 64, l. 24 *hoc magistro.*

mutandae c.: dependent on *ius*, as in 30, l. 33; 52, l. 31.

18 *positum etc.:* "depends not merely on the enactments of governments, but also on the choice of individuals".

19 *mutari civitate etc.:* cf. 31, l. 10 *civitate mutetur.* The thesis that the Roman citizenship is inalienable, and can only be lost by the act of the individual in acquiring the franchise of another city, is strongly maintained by Cic. in Caec. 95—100, a most important passage, which should be closely studied. Even the effect of the *capitis deminutio maxima* (loss of *status* by being sold into slavery or by going into exile to avoid punishment) was not necessarily permanent or final; freedom might be recovered, or the sentence to which the exile was due might be quashed, when the full rights of citizenship would at once be revived. Cf. Pro Domo 77 *cum hoc iuris a maioribus proditum sit, ut nemo civis Romanus aut libertatem aut civitatem possit amittere nisi ipse auctor factus sit*; ibid. *ut civis Romanus libertatem nemo possit invitus amittere*; ib. 78 *civitatem vero nemo umquam ullo populi iussu amittet invitus.* Under the empire the law was different; persons condemned to penal servitude (*servitus poenae*) or transportation (*deportatio*) lost the franchise.

20 *neque, si velit etc.:* "nor can he avoid removal from the burgess-body, however much he wishes it, if he only is enrolled etc." *Asciscere* (εἰσποιεῖσθαι) is a *vox propria* in connexion with enfranchisement; Arch. 4, l. 19, Liv. 6, 40, 4.

21 *esse se velit:* n. on Arch. 10, p. 25, l. 5.

ut...potestas sit: n. on 25, l. 21 *ut...ne liceat.*

23 *magna p.:* "full power"; Nägelsbach, Stilistik § 70, 2, quotes Caes. B. C. 3, 14, 3 *magnus casus* = "a pure chance"; "a downright accident".

25 *possit esse:* n. on *debet esse* in Arch. 31, l. 21.

§ 28.

25 *duarum civitatum etc.:* the same principle is emphatically asserted in Caec. 100 *cum ex nostro iure duarum civitatum nemo esse possit.*

27 *dicarit:* n. on 30, l. 30.

dicatione: a word of rare occurrence in good Latin.

calamitate: euphemistic as in 65, p. 46, l. 3 and Arch. 9, l. 22, where see n.

28 *Q. Maximo:* Klotz says "die Sache ist ungewiss", but no doubt the man referred to is Q. F. Maximus Eburnus, praetor in 120, and consul in 116 B.C., who about 105 stretched the old theory of the *patria potestas* so far as to put his disobedient son to death by his own hand, with the assistance of two of his slaves. For this he was prosecuted by the father of Cn. Pompeius Magnus, and condemned.

C. Laenati: possibly the man who as *legatus* in the army disgracefully surrendered to a Gaulish force, and had to go into exile, because a charge of *maiestas* was brought against him (107 B.C.). But most likely the *praenomen* C. is a MSS corruption, for which P. ought to be substituted. P. Popillius Laenas, the father of the Laenas last named, was consul in 132 B.C., when he acted with great severity against the followers of Tib. Gracchus, for which he was driven into exile by C. Gracchus in 123 (cf. Post. red. in Sen. 38, Brut. 128).

Q. Philippo: possibly the son of the commander during the war against Perseus (169 B.C., cf. Liv. 44, 3), but nothing definite is known of his condemnation and exile.

Nuceriae: in Campania, a *civitas foederata*. The time at which the *foedus* was concluded is not recorded; probably it was during the earlier Samnite wars.

29 *C. Catoni*. consul in 114 B C. and then governor of Macedonia; for illegal exactions there he was condemned to pay a large money-fine (Verr. 3, 184 and 4, 22). He was afterwards, like many other prominent Romans, bribed by Iugurtha, and condemned by the special commission appointed under the *Lex Mamilia* of 109 to try those involved in the so-called *coniuratio Iugurthina* (Brut. 127, N. D. 3, 74, Sall. Iug. 40). Being condemned he fled to Tarraco in Spain (Brut. 128).

Q. Caepioni: as praetor in 110 triumphed over the Lusitanians; as consul in 106 took Tolosa (Toulouse) with immense booty, most of which he appropriated to himself; as proconsul in 105 commanded an army against the Cimbri and was mainly responsible for one of the most disastrous defeats the Romans ever suffered, 80,000 men being lost; on returning to Rome was stripped of his commission (*imperium abrogatum est*—a very rare proceeding); thrown into gaol by one plebeian tribune, he was liberated by another and fled to Smyrna. His history, however, is in many points obscure. According to some authorities, the exile came later, in 95 B.C. and followed on a condemnation for embezzling the Toulouse booty.

P. Rutilio: consul in 105 B.C.; went as *legatus* with Q. Mucius Scaevola to Asia, which province he governed some time as proconsul with thorough purity and uprightness. By repressing the illegal extortions of the tax-collectors he incurred the hatred of the equestrian body, so that he was unjustly arraigned and condemned. He lived many years at Smyrna, and declined an offer made by Sulla to reinstate him at Rome. He was excellent as soldier, orator and man of letters.

30 *videmus:* see Appendix.

31 *ante amittere:* cf. Caec. 100 *non prius civitatem quam vitam amitterent.*

solum vertissent: Caec. 100 *solum vertunt, hoc est sedem ac locum mutant.*

32 *postliminio:* when a Roman became a slave, through being captured in war by the enemy, he underwent the *capitis deminutio maxima*, and ceased to be a citizen, but if he became free again he regained all his former rights *iure postliminii* "by right of subsequent return", as the phrase went.

P. 31.

1 *Menandro:* his case is quoted in the Digest 49, 15, 15, 3, as from Q. Mucius Scaevola. He had no doubt been originally captured in war by the Romans, and feared that if he did not take precautions, it might be contended at some future time that the principle of *postliminium* applied to him. Thus he would have regained his original franchise and *ipso facto* would have lost the Roman citizenship. As a rule the *interpretes* were hired in the provinces, being almost the only officers whom a provincial governor did not take with him from Rome.

legati nostri: probably a senatorial commission (usually of ten members) of the kind generally sent out to arrange for the permanent settlement of a conquered province. Such a commission was sent out to aid L. Paulus in settling Macedonia (167 B.C., see Liv. 45, 17), another to help Mummius to put in order the affairs of Greece (146 B.C., see Att. 13, 6, 4 and 13, 30, 3 and 13, 32, 3). Menander may have served either of these commissions.

5 *superiore memoria:* "in the history of former times"; cf. *recens memoria* ("the history of recent times"), *nostra memoria* ("contemporary history").

6 *incolumes:* cf. Arch. 9, l. 21.

his rebus:=hac re publica as in Arch. 22, l. 21 and Acad. 2, 58 *Deli, salvis illis rebus.*

alias...contulerunt: cf. 30, l. 30.

§ 29.

8 *Gaditanum:* a remarkable constr. (for *Gaditano*), well discussed by Madvig, Opusc. 2, 29, who declares that only two similar passages (of certain reading) are to be found in authors of repute, viz. Ter. Haut. 2, 4, 8 (*expedit bonas esse vobis*), Quintil. 7, 1, 19; Forcellini however qu. also Quint. 4, 4, 6, Ov. Her. 14, 64. Mr Roby rightly explains the sentence (vol. 2, pref. p. 25), "the being a Gaditan is a thing permitted to a Roman citizen", *Gaditanum* being "not a predicate of *civi*, but of the unexpressed subject which lies in the abstract use of the infinitive". The constr. will become still clearer if we write in the above translation "for one to be" or "that one should be" instead of "the being". *Esse Gaditanum* is in fact subject to *licet*, which here happens to have a dat. dependent on it. When the dat. dependent on *licet* is not expressed, the accus. with inf. is not only a possible, but *the necessary* constr. In Att. 10, 8 Cic. writes *nam medios esse iam non licebit*; if *nobis* had been added the constr. would have been identical with the one in the text. Cf. also Fam. 7, 1, 5 *neque nos lepore tuo neque te meo frui liceret*, Verg. Aen. 10, 236 *dedit* (*eis* not expressed) *esse deas*, where *deas* is subject of *esse*, while *esse deas* is object of *dedit*. Similar to the constr. of *licet* here is that of ἔξεστι in exx. like Thuc. 4, 20 ἔξεστιν ὑμῖν φίλους γενέσθαι.

9 *exsilio:* exile, as Cic. states in Caec. 100, was never assigned by law as a punishment for any offence; it was not *supplicium* but *perfugium*

portusque supplici; it was in order to avoid the legal penalty that the offender had recourse to exile, *quasi ad aram*. In imperial times the law was changed.

reiectione: i. e. by actual enrolment as citizen in another city, which is not implied in *exsilium*.

ut iam: probably *ut* ought to be struck out. The words imply "I now come to deal with the question of treaty", whereas the context evidently requires "I shall come to the treaty by and by".

10 *nihil pertinet:* on this question see Introd. p. 18.

11 *civitatis: sc. donandae.*

12 *venire:* n. on 19, l. 29.

13 *longe secus sentio:* the correct answer to the question would have been *nihil omnino esse sentio*; possibly Cic. wrote not *quid est* above but *ecquid est*—"is there any reason"—"I am far from thinking there is". *Longe secus* is merely a stronger way of putting *contra*. In Part. Orat. 15 the question is put *quid faciendum est* CONTRA *reo?* The answer is *omnia* LONGE SECUS.

14 *via:* so 54, l. 18; *iter:* cf. *aditus ad c.* in 54, l. 12, *ascensus ad c.* in 40, l. 11. Nägelsbach, Stilistik § 167, 3, well calls attention to the elaborate chiasmus (inversion of the order of words in corresponding groups) which is shewn by the difference of type thus: cum *ex omnibus civitatibus via sit* in nostram cumque nostris civibus *pateat* ad *ceteras iter civitates*. Notice *cum—tum—vero*; the *vero* lays greater stress on the second clause than would be assigned to it by *cum—tum* alone.

15 *ut...ita:* "in proportion as...so"=*quo magis...eo magis.*

16 *sponsione pactione foedere:* n. on 15, p. 25, l. 33. *Sponsio* here is very slightly different from *pactio*. Both imply agreements entered into with the enemy by a Roman commander without special authorisation from the government; the difference lies only in the *form* of the agreement, which in the case of *sponsio* (whether used in private or public affairs) was concluded by the solemn question which each of the parties put to the other "*spondesne*", and the solemn answer which each gave "*spondeo*". The Romans several times refused to ratify *sponsiones* entered into by commanders (as at the Caudine Forks and Numantia) who were in that case handed over to the enemy (*dediti*).

18 *contineri: sc. nobiscum.*

20 *idem iuris:* so Iuv. 6, 217, Fam. 9, 2, 2 *idem consili*, Liv. 36, 2, 9 *idem supplementi*; so most other neuter pronouns frequently take gen., as *hoc* (Hor. Sat. 1, 4, 103 *hoc iuris*), *istuc* (Ter. Phorm. 5, 3, 33 *i. negoti*), and commonly *illud, id, quid.*

§ 30.

23 *Athenis...undique:* observe the chiasmus. For the omission of *et* before *Lacedaemonios* cf. 28, p. 30, l. 29 *Q. Caepioni P. Rutilio Zmyrnae.*

24 *ascribi:* so Arch. 8, p. 24, l. 7, and 10, p. 24, l. 29. Archias was a citizen of many Greek cities.

quo errore: strictly incorrect, since the Greeks were justified in belonging to many cities; =*errore ex ea re nato.*

26 *iudicum: i.e.* δικαστῶν, or ἡλιαστῶν, of whom at Athens there were 6000, chosen 600 from each tribe, hence *certa tribu.* There were 10 courts (δικαστήρια) and jurors were assigned to each by lot. Every juror employed received a ticket (πινάκιον) inscribed with his name and, to denote the court in which he was to serve, a letter, to which Cic. refers in the words *certo numero* (letters being used to denote numbers). As the Areopagus had no fixed number of members, but consisted of the past archons, and was not divided into sectional courts, the words *certa tribu, certo numero* can only apply to *iudicum.*

28 *postliminio:* Cic. seems to imply that the principle of *postliminium* applied to those Romans who after becoming citizens of other towns returned to Rome, as well as to those Romans who had been in captivity.

29 *nemo...dicavit:* thus in spite of his close connexion with Athens, Atticus refused to be enrolled there as a citizen; see Nepos Att. 3, 1. *Moris ac iuris:* so *more lege iure* (Rosc. Am. 143), *neque more neque iure* (Suet. Iul. 18).

30 *in aliam se dicavit:* but in 28, l. 26 the dative follows *se dicare*; there are many verbs which Cic. sometimes uses with dat. sometimes with *in* (or other preposition) and acc.; e.g. *adhaerere, convenire, illudere, imminere,* also *addere, adicere, subicere, offerre, obicere* (Arch. 14, l. 15, n.).

P. 32.

1 *religionis ac foederum:* n. on 15, p. 25, l. 33; cf. Veri. 5, 49 *religionibus foederum.*

2 *defendo, etc.:* "I maintain the general proposition that, etc."

ex omni regione: these words are almost equivalent to an attribute of *gentem.* Strictly speaking, *ortam* or some such word is omitted in such expressions; so Liv. 4, 28, 3 *Vettus Messius ex Volscis,* and often. For *ex* a modern would write *in*; cf. οἱ αὐτόθεν "those on the spot"; also 32, l. 26 *non nullorum ex Gallia barbarorum. Omni* here is put loosely for *ulla*; so *sine omni* is common in colloquial language for *sine ullo* or *aliquo. Regione terrarum*= "quarter of the world"; n. on Arch. 23, l. 31.

3 *tam dissidentem:=quae tanto opere dissideat*; cf. Kennedy, Gram. § 238 B. 1. Beware of taking *esse dissidentem* together, as though the participle were here a mere predicate or epithet, used like an adjective.

4 *discidio:* most scholars now hold with Madvig (Excursus to De Fin.) that wherever *dissidium* occurs it is a mere MSS corruption for *discidium.*

5 *coniunctam:* a slight zeugma, *cum ea* having to be supplied from *a populo Romano* above.

interdictum sit...possimus: as the clause with *ne* depends on a verb in the perf. tense, *possemus* might have been expected; the present,

however, is used in cases where particular stress is laid on the fact that the effect of the action expressed by the preceding verb continues still. Draeger (Hist. Synt. 1, 226) qu. a very similar passage—Verr. 5, 50 *quid si eius modi esse haec duo foedera duorum populorum doceo, ut Tauromenitanis nominatim cautum atque exceptum sit foedere, ne navem dare debeant.*

§ 31.

7 *iam inde a etc.:* the words "*a principio Romani nominis*" are explanatory of *inde*; literally "already from that time, viz. from etc."

8 *comparata:* lit. "got together", hence "settled"; so Liv. 6, 17, 8, Sall. Cat. 51, 8.

9 *possit:* n. on l. 6.

10 *iuris:* "of legal system".

civitate mutetur: a rare phrase; the abl. is one of separation, like the simple ablatives which even in Cic. sometimes follow *cedere, pellere* and the like. Trans. "that no one should be removed from the roll of citizens". Cf. 42, p. 36, l. 28, and Ovid. Trist. 5, 2, 73 *hinc ego dum muter.*

11 *haec sunt fundamenta:* the sing. might have been expected here; perhaps the plural is referred to the two notions contained in *retinendi* and *dimittendi.*

16 *foedere Sabino:* Liv. 1, 13, 4 *ad foedus faciendum duces* (Mettius Curtius and Romulus) *prodeunt; nec pacem modo, sed civitatem unam ex duabus faciunt*, Cic. Rep. 2, 7 *quo foedere Sabinos in civitatem ascivit* (*Romulus*).

18 *numquam intermissa:* Cic. speaks loosely; between 188 when Arpinum, Fundi and Formiae received the *civitas* and the passing of Lex Iulia, few, if any, alien communities were enfranchised.

19 *Latio:* not a geographical term (as the word *generibus* shews) but =*nomine Latino.*

20 *Tusculani:* in 381 B.C. Tusculum received the full franchise (Liv. 6, 26) and before that it had the *civitas sine suffragio*; it was therefore the oldest *municipium*, as Cic. calls it in Planc. 19. Lanuvium was enfranchised with other Latin towns, Nomentum, Aricia, Pedum, in 338 B.C. (Liv. 8, 14).

generibus: "stocks"; *gentes:* "communities"; see Appendix.

21 *Sabinorum:* the Sabine communities received the *civitas sine suffragio* in 290, the full *civitas* in 268 B.C. (Vell. Pat. 1, 14, 5). It is not known exactly when the Volscian and Hernican communities were enfranchised. Cf. Off. 1, 35 *maiores nostri Tusculanos Aequos Volscos Sabinos Hernicos in civitatem etiam acceperunt.*

22 *coacti essent: i.e.* before the cities received the *civitas*, when they were *civitates foederatae.*

§ 32.

26 *At enim etc.:* for the readings in this section see Appendix.

foedera: the clause in these treaties to which Cic. refers was most likely not demanded by the Romans, but by the tribes themselves, who wished to protect their nationality. The *foedus* of the Cenomani was probably somewhat older than 187 B. C. (Liv. 39, 3). After remaining faithful (alone among the Gauls) to the Romans while Hannibal was in Italy, they joined Hamilcar against Rome, but deserted at the battle of Comum (197 B. C.; cf. Liv. 32, 30) and remained quiet ever after. The Insubrians were defeated in the same battle, and took up arms no more. The Helvetii first appear in history as allies of the Cimbri and Teutones in the time of Marius, and were finally beaten by Caesar in 58 B. C. The Iapides were a turbulent Illyrian people, only finally subdued by Augustus. It should be noted that some of the communities here referred to were in 89 B. C. placed in the position of Latin colonies and in 49 B. C. received from Caesar the full franchise.

28 *Gallia:* here only includes *G. transalpina.*

barbarorum: inserted because Rome had *foedera* with states in Gaul, such as Massilia, not inhabited by *barbari.*

29 *exceptio:* "the saving clause".

30 *ubi...ibi:=in quo foedere, in eo.*

32 *civitate:* for *in civitatem*; so *urbe* in Liv. 26, 25, 12, and in Greek δέχεσθαι τῇ πόλει often occurs for ἐς τὴν πόλιν, as in Thuc. 4, 103.

nusquam: n. on 16, l. 17 *nemo profecto.*

33 *lex id Gellia:* note the position of *id*; cf. Arch. 24, l. 14 *magno illud clamore.*

definite: "explicitly".

P. 33.

1 *exceptum etc.:* many of the very great difficulties contained in this passage, down to the end of § 33, cannot be fully discussed here; for further discussions see Appendix.

2 *inquit...tibi:* this sudden change from third to second person is not uncommon; cf. Acad. 2, 79 with my n. *Inquit* thus used is slightly contemptuous, like our "quotha!"

3 *Poenorum: i. e. Gaditanorum*; for the prosecutor's history see Introd. p. 11.

5 *sua:* not *sui*; n. on 4, l. 19.

iudicio publico: see n. on Arch. 3, l. 2.

§ 33.

6 *rogatione:* a common, but incorrect use of the word, which properly denotes a *bill* offered to the *comitia*, as opposed to an *act* (*lex*) passed by it.

8 *nihil potest nisi etc.:* every public enactment (*foedus* or *lex*) contained a clause indicating the punishment decreed for the offender against it. Such a clause is technically called *sanctio*; hence *sanctio* and *poena* are

often almost equivalent terms, as in Verr. 4, 149 *legum sanctionem poenamque*. The Romans distinguished between *poena divina* and *poena humana* (cf. Leg. 2, 22); a *sanctio* might decree either or both. If it decreed the former at all, the *foedus* or *lex* might properly have applied to it the term *sacrosanctus*. If the *poena humana* was omitted (as was necessarily the case with a *foedus*—cf. Liv. 1, 24—and as happened with some *leges* relating to *res divinae*) the enactment would be *genere ipso poenae sacrosanctum*, i. e. merely (note the force of *ipso*) by virtue of the class of punishment decreed. But most *leges sacrosanctae* contained not only an *obtestatio* (invocation of the gods to punish the offender) but a *consecratio capitis*, which brought with it human punishment.

9 *sanctiones sacrandae sunt etc.:* many scholars have unjustly suspected this phrase, because such an expression as *sacrare sanctionem* does not occur elsewhere. But *sanctio* is a portion of a *lex* and *sacrare legem* is at least implied in the name *lex sacrata*. Trans. "penal clauses must be placed under divine sanction". The change of construction from *genere poenae* to *cum* (when) *consecratur* is noticeable. For *obtestatione legis* (an invocation to the gods contained in a law) cf. Pro domo 125 *obtestatio tibicinis* (an invocation made by a *tibicen*), also Arch. 31, l. 17 *beneficio legis*, where see n.

12 *dicere:* the infin. as object after *habeo* is common in Cic. (as N. D. 3, 93 *dicere*, Att. 2, 22, 6 *scribere*) but rare in other prose writers, though found in poets of all epochs.

13 *utrum...confirmas:* this clause has been wrongly ejected by many scholars, including Madvig. Cic.'s question is: "Can you point out any *lex* relating to this so-called *foedus*, and containing either the *obtestatio* or the *consecratio?*"

15 *populum:* the *comitia centuriata*; *plebem:* the *comitia tributa*, which usually conferred on the Senate the power to conclude *foedera*.

17 *id...ratum:* Cic. is quoting the old proviso of the XII tables given in Liv. 7, 17 *ut quodcumque postremum populus iussisset, id ius ratumque esset*. Every law, or nearly every law contained a proviso (*sanctio*) "*de impunitate si quid contra alias leges eius legis ergo factum sit*" (Cic. Att. 3, 23, 2).

18 *illis verbis:* "the well-known clause"; Cic. refers to a standing clause in all laws, thus given by Valerius Probus (qu. by Rein in Pauly's Realenc. art. *lex*) *si quid sacri sanctique est, quod ius non sit rogarier, eius hac lege nihilum rogatur*; cf. Caec. 96, Pro dom. 106. Either the terms of the clause were not uniform, or Cic. (as is often the case with him) quotes them inaccurately.

§ 34.

22 *neque est meum:* "nor is it in me to..."

23 *opinionem:* "judgment".

24 *auctoritatem senatus:* strictly speaking *auct. senatus* is a resolution of the Senate which lacks some formality (such as the assent of the tribunes) to give it force; when all the formalities are completed it becomes a *senatus consultum*.

24 *duris...nostrae:* cf. Lucretius' *patriai tempore iniquo.*

26 *nixa:* "supported by"; note that *nixus* and *nisus*, both from *nitor*, have somewhat different meanings; *nisus aliqua re*=struggling, striving by means of something, *nixus aliqua re*=relying on something.

Hispaniis: i.e. citeriore et ulteriore.

27 *lumina:* MSS *fulmina*; but these two Scipios were disastrously defeated and killed in Spain (212 B.C.); it is therefore passing strange that they should be spoken of as *fulmina imperi* (to say nothing of the fact that the genitive *imperi* is ill suited to the word *fulmina*). Lucretius 3, 1034, and his imitators Verg. Aen. 6, 842, Sil. 7, 106 might of course very well call Scipio Africanus maior and minor *fulmen* or *fulmina belli* (not *imperi*). *Lumen* is a very favourite word of Cic. and is very apt to get corrupted in MSS (Marcell. 4 *flumen ingeni* is a corruption for *lumen*). Cf. with our passage Cat. 3, 24 *lumina civitatis exstincta sunt*, Prov. Cons. 22 *lumina atque ornamenta rei publicae* (so Phil. 2, 37), Deiot. 15 *omnium gentium atque omnis memoriae clarissimum lumen exstinguere*, Phil. 2, 51 *tot luminibus exstinctis*, Phil. 11, 24. It will be seen that the word *exstincti* here is distinctly a point in favour of *lumina*. Observe that it agrees with *Scipiones*, not *lumina*.

28 *L. Marcius:* commanded with considerable success the shattered remnants of the Roman army after the defeat of the Scipios (Liv. 25, 37; 26, 2). In 206 B.C. Gades surrendered to him (cf. Liv. 28, cc. 23, 30, 36, 37) at which time probably the treaty was concluded.

primi pili centurio: i.e. a centurion of the *triarii*, the third or reserve line in the Roman order of battle. The *hastati* and *principes* are often called *antepilani*. No probable philological account of the phrase *primi pili* has yet been given. That of Corssen (1, 529 sq.) is farfetched and presumes the doubtful doctrine that only one *centurio* among the *triarii* was called *centurio primi pili*.

31 *teneretur:* "was upheld". *Religionis:* the *foedus* had not been concluded by the *fetiales* under public authority.

32 *publici iuris:* "law relating to matters of state"; opposed to *privati*.

M. Lepido etc.: i.e. in 78 B.C.

33 *postulaverunt:* "made a request of the Senate". The omission of an acc. is noteworthy.

P. 34.

2 *sententiam non tulit:* at the time (78 B.C.) the matter was no doubt treated, in accordance with Sulla's principles, as one in which the *populus* had no right to interfere.

3 *nullo pacto:* here=*nullo modo*, as often.

§ 35.

5 *vetustate:* "prescription".

6 *iudicio senatus:* so l. 13; also 53, p. 41, l. 1; 55, p. 41, l. 28, Or. 140, Imp. Cn. Pomp. 43, De Leg. 2, 42 and *iudicia populi Romani* in Phil. 1, 36. Cf. 34, p. 33, l. 24 *auctoritatem senatus.*

8 *abest:=deest*; so 9, l. 30.

nusquam: used, as often, where a modern would be inclined to use *numquam*.

9 *causa deterior:* a legal phrase; "nor is the case of the Gaditanes made thereby weaker". Cf. *superiore causa* below, 36, l. 25; also 45, l. 28 *condicionibus civitatum atque causis*.

12 *per populum:* not *a populo*, because in such matters the Senate takes the initiative, and the people merely gives a formal authorisation. So 37, p. 35, l. 7; 54, l. 18; 25, l. 23.

13 *commendatione...voluntate:* for the juxtaposition of ablatives in different constructions see above, 25, l. 23 n.

15 *comprobat:* this verb implies an *ex post facto* approval; so 53, p. 41, l. 3; 55, p. 41, l. 29, Arch. 31, l. 19.

17 *nihil aliud:* this statement is probably a very loose one, though repeated in 38, l. 17. It appears from Liv. 32, 2 that the original treaty contained a stipulation binding the Romans not to send a *praefectus* to govern the town.

pia et aeterna pax: the usual formula in *foedera* was *amicitia his legibus esto* (Liv. 38, 38, 2; cf. Polyb. 3, 22, 3 and 24, 4 ἐπὶ τοῖσδε φιλίαν εἶναι). *Pia pax* is a formal peace concluded with due religious ceremonies; cf. *pium iustumque bellum* (Liv. 42, 23, 6). For *aeterna* cf. Dionys. 6, 95 Ῥωμαίοις καὶ ταῖς Λατίνων πόλεσιν ἁπάσαις εἰρήνη πρὸς ἀλλήλους ἔστω μέχρις ἂν οὐρανός τε καὶ γῆ τὴν αὐτὴν στάσιν ἔχωσι.

19 *non est in omnibus:* a more favourable clause, binding the Romans as well as the other party to the *foedus*, was often inserted, *ut eosdemque amicos atque inimicos haberent* (Liv. 37, 1, 5). Many *foedera*, such as those concluded with the Gaulish tribes mentioned above (§ 32), contained no provision of the kind.

20 *maiestatem...conservanto:* the insertion of this clause made the *foedus* distinctly *iniquum*, for the clause bound the Gaditanes to defend Roman interests, without binding Rome to defend those of Gades. The clause recurs in slightly different words in the Aetolian treaty of 189 B.C. (Liv. 38, 11, 2) *imperium maiestatemque populi Romani gens Aetolorum conservato sine dolo malo.* Cf. Proculus in Dig. 49, 15, 7, 1 *liber autem populus est is qui nullius alterius populi potestati est subiectus sive qui foederatus est, item sive aequo foedere in amicitiam venit sive foedere comprehensum est, ut is populus alterius populi maiestatem comiter conservaret.* The phrase *comiter conservare* is used by Liv. 42, 24, 10 with reference to the duties of hospitality.

21 *ille: sc. populus Romanus.* Cic. means: "does this clause infringe the right of Rome to grant the *civitas* to whom she pleases?" Cf. 38, l. 21; 44, l. 21.

§ 36.

22 *verbi genus:* all Cic. means probably is that the imperative forms in *-to* (and particularly the third person plural which he himself uses

constantly in the laws he formulates in De Leg. 2, 18—22 and 3, 6—11) were more familiar to Romans from their occurrence in laws than from their occurrence in treaties. Certainly the forms were not avoided in treaties. In the Aetolian treaty in Liv. 38, 11 are ten exx. (one plural), in that with Antiochus in Liv. 38, 38 twenty-four exx. (three plural).

23 *imperantis est, non precantis:* this is perhaps true of the imperative of the third person in *-to*, but certainly not of the second person.

26 *foederis sanctione:* cf. *legis obtestatione* above, 33, l. 10, n.

in quo: "concerning which matter".

28 *communiter:* "mutually"; he tried to shew that the clause bound Rome as well as Gades.

29 *comes benigni, faciles suaves:* probably the beginning of an iambic line out of some play. Note how the epithets go in pairs; see critical n. on 6, l. 32.

30 *qui...viam:* the end of a line of Ennius (Ribbeck, Trag. 366) well known, and qu. by Cic. Off. 1, 51. In Enn. 365 (Ribb.) occurs *comiter monstrabitur.*

31 *benigne:* "liberally, not grudgingly"; cf. Liv. 42, 1, 10 *privata hospitia habebant; ea benigne comiterque colebant*, Cic. Phil. 13, 4.

communiter: "the meaning 'mutually' assuredly does not suit the passage."

§ 37.

32 *absurda res est:* a variation for the ordinary *absurdum est*, just as Plaut. often has *certa res est* for *certum est.*

P. 35.

1 *esse salvam velit:* n. on Arch. 10, p. 25, l. 5.

2 *si iam:* "supposing for the sake of argument" (lit. "for the moment"); a noticeable sense of *iam*, of which many exx. are collected by Munro on Lucr. 1, 968, Madvig on Fin. 4, 66, Kühner on Tusc. 1, 50.

5 *elicere: sc. ex civitate sua*, as in 22, l. 28.

6 *esse:* emphatic; "exist".

7 *per populum deferamus:* in using the first person Cic. was no doubt thinking of the Senate, of which he was a prominent member.

§ 38.

10 *disputo quae:* though *disputo* takes the construction *de aliqua re*, not *aliquam rem*, it may be followed by an accusative of a neuter pronoun, as *haec* in Fam. 3, 8, 3. Cf. n. on 61, p. 44, l. 8.

si...dicerent etc.: explained by the beginning of § 39.

12 *repetentibus:* so 52, l. 27. The word *repetere* is constantly used of claims for restitution made by one state upon another; usually followed

by *res*, as Liv. 7, 32, 1. Cf. a similar use in Pro dom. 144 *vos qui me maxime repetistis et revocastis.*

14 *non solere:* above §§ 20—22.

de consili sententia: n. on 11, l. 29.

16 *habere:* "can point to".

17 *exceptum videretur:* so 33, l. 7 and l. 19.

nihil...additum esse: cf. 35, l. 17 *nihil aliud...adiunctum est.*

20 *minueretur:* Cic. has now left the indirect mode of statement and returned to the direct, otherwise *quam minui* or *fore ut minuatur* would be used.

adiutoribus illorum civibus: cf. 25, l. 23.

§ 39.

23 *id quod defendo:* "the very thesis I am maintaining".

voluntate: "sympathy"; *auctoritate:* "expressed opinion".

legatione: for the purpose of presenting a *testimonium publicum* in favour of the accused, such as was presented by the citizens of Heraclia in favour of Archias; see Arch. 8, p. 24, l. 6.

24 *a principio:* "away from the source of their national existence and of their government"; for this use of *a* cf. Arch. 32, l. 30 n.

25 *studio sensuque Poenorum:* "zeal and fellow-feeling for the Carthaginians"; a good ex. of the so-called objective genitive. Elsewhere in Cic., nearly if not quite always, where persons are spoken of, not the objective gen. but *in* or *erga* with accus. follows *sensus*, *studium*, *voluntas*. *Amor*, however, takes an objective genitive. Nägelsbach well compares for the general sense Liv. 8, 19, 11 *Fundanis pacem esse et animos Romanos*. For the reading see Appendix.

26 *flexerunt:* many causes conspired to make the Gaditanes disaffected to the Carthaginians. Gades was a Phoenician, not specially a Carthaginian colony, and had once been independent; Gades and Carthage were commercial rivals; finally the Gaditanes were most cruelly treated by Mago before he abandoned the city to the Romans (see Liv. 28, cc. 30, 36).

27 *excluserunt etc.:* Liv. 28, 37, 1 *Mago cum Gadis repetisset, exclusus inde etc.*; probably the Gaditanes supplied ships for the Roman fleet in the last years of the second and during the third Punic war.

29 *speciem:* "semblance"; *illam...hoc:* cf. n. on Arch. 16, l. 5, also below, 57, p. 43, l. 6.

30 *arce:* many edd. propose to write *ara*. *Arx*, however, is quite right; the citadel is regarded as a place of safety; "more inviolable than any citadel". Cf. Cat. 4, 11 *hanc urbem lucem orbis terrarum atque arcem omnium gentium* (so Leg. Agr. 1, 18, Verr. 5, 184, Sull. 33, Lig. 22) Pis. 11 *templum illud fuit arx civium perditorum*, Verr. 5, 126 *haec arx, haec ara sociorum*, ib. 4, 17 *hac lege, communi arce sociorum*, Cluent. 156 *arce legis.*

§ 40, P. 36.

1 *testantur:* "call as witnesses".

3 *Scipiones:* the two Africani; *Brutos:* probably one man only is meant, D. Iunius Brutus Gallaecus, consul in 138 and governor of *Hispania ulterior*, who triumphed over the Gallaeci in 132, at the time when Scipio triumphed over the Numantines; cf. Arch. 27. The plural is used by a well-known idiom; cf. Tusc. 1, 4 *Polycletos et Parrhasios.*

Flaccos: the reading is doubtful; see Appendix. Possibly the allusion is to C. Valerius Flaccus, mentioned in § 55, who was consul in 93 B.C. and waged war against the Celtiberi.

Crassos: the reference no doubt is to P. Licinius Crassus Dives, the father of the triumvir, consul in 97, who was for several years governor of farther Spain. According to Strabo he sailed from Gades to the Cassiterides and was the first Roman who visited those islands.

4 *Metellos:* see on 5, l. 26.

5 *illorum:* put for *suis*, which might have been referred to Pompeius.

6 *hoc tempore ipso:* the occurrences above alluded to were of comparatively old date; while the scarcity of corn was great at Rome in 58 B.C. and the years following, and led to the appointment of Pompeius as *praefectus annonae* for five years with extraordinary powers. He had authority to command all towns in the empire to send corn to Rome at a fixed price (Att. 4, 1, 7), and may have compelled the Gaditanes to send it. From Cic.'s words, however (*ut saepe ante*), it seems that the corn sent from Gades was a gift. Subject states anxious to cultivate the favour of the Romans often made such gifts in time of scarcity (so Hiero in 215 B.C.; see Liv. 22, 37, 6).

11 *his gradibus ascensus:* cf. Pro dom. 75 *quibus tamquam gradibus in caelum mihi videor ascendisse*, Fin. 5, 40 *multis gradibus ascendere*, Har. Resp. 43 *aditus ad popularem iactationem atque ascensus*, Leg. 3, 7 *ad honoris amplioris gradum ascensus.*

§ 41.

12 *Afris etc.:* so 24, l. 13.

13 *multatis:* "mulcted in land and tribute". Cic. seems to assume here what is not true, that no *civitates foederatae* had to cede land or pay tribute.

15 *nobiscum...impositas:* there is a slight zeugma, some words like *ictum esse* being understood after *nobiscum.*

18 *hospitium publice fecisse: i. e.* they chose Balbus as their *hospes publicus*, or *patronus* at Rome. Cf. Introd. p. 7, also Arch. Introd. p. 7.

20 *tesseram: sc. hospitalem*; a token, or tally, broken into two pieces, one of which was kept by each party; identity could be proved by fitting the two bits together. There is a scene in Plautus' Poenulus (5, 2, 87 sq.)

where one man claims hospitality of another in virtue of an ancestral friendship between their families; the two pieces of the *tessera* are brought out and found to fit, and the claim is at once admitted. Sometimes there were two *tesserae* identical in all respects, one being kept by each party.

excito: a word especially used of calling up witnesses; Rab. Post. 47.

laudatores: the technical term for witnesses to *character*.

22 *huius:* depending on, not in agreement with *periculi*; so probably *illius orationis* in 4, l. 9; cf. *eius gloriae* in 13, l. 9, and *huius iuris* in 42, l. 33, also n. on 13, l. 11. *Deprecatores* here, and in 42, takes a gen. of a thing which it is sought to avert; often, however, it takes a gen. of something which it is thought to secure, as Sest. 27 *d. salutis meae*; cf. also Fam. 2, 13, 2 *deprecatores pro huius periculo*.

23 *audita...in senatu...convicia:* for readings see Appendix; for *convicia* n. on Arch. 12, l. 21; if the word be retained here it must be added to the exx. there quoted of the plural.

24 *istum*. i.e. the prosecutor.

§ 42.

27 *scita ac iussa*. *scita* refers particularly to *plebiscita*, while *iussa* is more general.

28 *civitate mutatum:* 31, l. 10, n.

30 *interponere iudicium voluntatis:* Madvig (Opusc. 2, 39) proposed *indicium*, wrongly, I think; for *certius* is an adverb, and the phrase *iudicium voluntatis* occurs elsewhere, as in Verr. 1, 41, and means a decided expression of feeling; cf. *voluntate* in 39, l. 23; 35, l. 13. For *interponere iudicium* cf. Att. 8, 3, 7, De Div. 2, 150; also below, 53, p. 41, l. 1.

33 *huius iuris:* n. on 41, l. 22.

§ 43, P. 37.

2 *saeptum sit:* note the tense; "absolutely closed".

3 *iter:* 29, l. 15, n.; *praenium civ.:* 10, l. 14, n.

6 *commendandi:* "of recommending for favours"; *commendatior:* "more favourably viewed".

8 *omitto quantis:* an ellipse of *dicere* common after *omitto*; so Sest. 27 *omitto quid fecerit*, and cf. 1, l. 8, n.

9 *cum esset:* Introd. p. 7.

10 *controversias etc.:* the clauses are loosely connected; *ut* must be supplied to go with the verbs; "*how* he allayed, etc."; see Appendix.

11 *barbariam:* the Punic element in the population no doubt oppressed the non-Punic, and Caesar's reforms gave all classes equal rights before the law.

disciplina: "institutions".

12 *studia contulerit:* so Cluent. 153 *studia ad honores petendos conferre.*

14 *consequantur:* prob. *consecuntur* should be read, as there seems little reason for the subj.

15 *adsunt:* cf. Arch. 8, p. 24, l. 4.

16 *officio:* the original meaning of *officium*, an action demanded by ties of blood or friendship, comes out strongly here; the word has a much narrower sense at all times in Latin than our "duty".

17 *civi:* this form of the abl. of *civis* prevails in Cic., though *cive* is found; see Neue, Formenlehre 1, 219 (ed. 2).

18 *commodorum:* "interests".

§ 44.

19 *afficiantur:* subj. not as dependent on *quamquam* (which is not directly followed by the subj. till post-Augustan Latin), but because the supposed opinion of the Gaditanes is indirectly quoted.

20 *civis:* subject to *venire*, while the words from *eorum* to *venire* stand in place of subject to *liceat*; cf. n. on 29, l. 1.

venire in: n. on 19, l. 29.

21 *inferius:* above, 35, l. 21.

23 *ignorantis:* "though you well understand it".

§ 45.

26 *prudentissimos:* "most skilled"; *prudentia* very commonly means not wisdom in general, but skill in some special pursuit.

28 *causis:* as in 35, l. 9.

30 *Q. Scaevola:* consul 117 B.C. and *augur*, which name was usually added to distinguish him from his cousin and contemporary of the same name, usually called *pontifex*. The Scaevola here mentioned was one of the greatest of Roman lawyers; cf. Brut. 102 *iuris civilis intellegentia atque omni genere prudentiae praestitit.*

praediatorio: persons bound to perform duties to the state, the non-performance of which would cause pecuniary loss to the state, were required to produce sureties (*praedes*) who would be liable in person and property (*praedia*) should the duties not be performed. The *praes* agreed in a formal document that stated portions of his property should in that case be liable to distraint. The technical phrase for the whole proceeding was *praedibus ac praediis populo cavere* (Liv. 22, 60, 4) and the *praes* was said *subsignare praedia* (Flacc. 80). If distraint became necessary the officials of the *aerarium* sold the specified property after public advertisement (*proscriptio*), and there was a class of mercantile speculators called *praediatores* who bought up such property (Gaius 2, 61 *qui mercatur a populo praediator vocatur*). The legal rules relating to such distraint were called *ius praediatorium* (Cic. Att. 12, 17) and were contained in a particular chapter of the *edictum praetorium* headed *de praediatoribus.*

31 *consultores:* "clients", a lawyer being *consultus*.

32 *Furium...Cascellium:* not mentioned elsewhere except by Val. Max. 12, 8, 1 who merely quotes Cicero's words here and wrongly supposes the men to be lawyers instead of brokers.

reiciebat: "referred"; cf. Att. 9, 13, 8 *sed ne bis eadem legas ad ipsam te epistulam reicio.*

33 *Tugionem:* apparently a lawyer who had specially studied the *ius aquae ducendae per alienum fundum* and the *ius aquae hauriendae ex alieno fundo* (briefly called by Cic. Caec. 74 *aquae ductus, haustus*), which were part of the so-called *servitutes* (*easements*) *praediorum rusticorum* (see Dict. Ant.) and often caused disputes between neighbouring proprietors.

P. 38.

1 *Aquilium:* the most brilliant lawyer of his time, the subject of an extravagant eulogy in Caec. 77—79; colleague of Cic. in the praetorship.

2 *de foederibus:* "when treaties are in question".

3 *iure...belli:* n. on 15, p. 26, l. 2.

peritissimis: substantival, as in 56, l. 13; n. on Arch. 7, l. 31.

§ 46.

4 *possumusne etc.:* "can we satisfy you by giving as authority for a case in point and for that course of action which you blame, the name of C. Marius?" Observe that Marius is almost the only great democratic leader of preceding times whom Cic. ever praises. Both Cic. and Marius belonged to Arpinum, and there was a distant family connexion between them.

6 *quaeris:* note the omission of the interrogative particle; in positive sentences the abruptness thus caused indicates some strong feeling, as of surprise or indignation. Cf. 7, l. 16.

8 *is igitur:* for readings in this section see Appendix.

Iguvinatem: the people of Iguvium (an Umbrian town) are usually called *Iguvini*.

10 *Camertium:* the inhabitants of Camerinum (also in Umbria and not to be confounded with *Cameria* in Latium) were called *Camertes*. After the word *Camertinum* the word *foedus* must be supplied. The *foedus* between Camerinum and Rome was probably as old as 310 B.C. (Liv. 9, 36, 7). Livy in 28, 45, 20 calls it *aequum* and it would appear from the passage that Camerinum was not even bound by treaty to supply Rome with troops (cf. Val. Max. 6, 5, 1). The *foedus* with Iguvium is known only from this passage, but was probably concluded in 308 B.C. at the same time with that between Rome and Ocriculum, another Umbrian town (Liv. 9, 41, 20).

11 *sanctissimum*. unless Cic. really wrote *antiquissimum*, the word alludes to the constant harping of the prosecutor upon the word *sacrosanctum*; cf. 39, l. 29 *speciem foederis omni sanctiorem arce.*

12 *ut:* limitative; "without the action of Marius being stigmatized"; Cic. often makes the sense clearer by putting *ita* in the preceding clause. For the proceeding of Marius see Introd. p. 13.

§ 47.

14 *cogitatione:* "imagination", a common meaning and one which διάνοια often has; cf. 9, p. 24, l. 11 *cogitaverunt.*

conspiciatis mentibus: so *animo videre* in Fam. 6, 3, *cernere* in Acad. 2, 22.

16 *foederis:* the sing. because the treaty with Camerinum is especially meant.

18 *eruditum:* in Sall. Iug. 85 Marius says *quae illi litteris ego militando didici.* M. was *legatus* to Metellus in the earlier part of the war against Iugurtha, and again to P. Rutilius Lupus (consul 90) during the first part of the Social war.

19 *legisset:* n. on Arch. 28, l. 16; "if he had had a mere book-knowledge of wars like those which he waged". See Appendix.

20 *quotiens...fuit:* he died a few days after entering on his seventh consulship.

25 *quo minus:* a very unusual variation for *ne*, which is in 32, l. 29; cf. Leg. Agr. 2, 21 *lex adfinis excipit ne...*, ib. 2, 24 *Cn. Pompeius excipitur ne...*, and so Att. 6, 1, 6, Varro Rust. 2, 3, 7, Quintil. 5, 12, 14. If *aliquid* had been inserted before *exceptum* the construction would not have been strange; the notion of *prevention* which *exceptum* introduced gave rise to *quo minus*; cf. *impedimur quo minus* in 37, p. 35, l. 7.

§ 48.

27 *de civitate quaestio:* cf. the Athenian διαψήφισις.

28 *Licinia et Mucia:* passed by the consuls of 95 B.C., Crassus, the great orator, and Scaevola (called *pontifex*), to prevent aliens from exercising the rights of citizens at Rome. A *quaestio extraordinaria* was held, and those convicted were ejected from Rome and returned to their native towns; see Off. 3, 47, Brut. 63. The *socii* and *Latini*, large numbers of whom resided at Rome, were deeply aggrieved, and the law did more than anything else to bring about the Social war. Cf. fragm. 10 of Cic.'s speech Pro Cornelio *legem Liciniam et Muciam de civibus redigundis...video constare inter omnes non modo inutilem, sed perniciosam rei publicae fuisse.*

29 *in iudicium vocatus:* 7, l. 8.

31 *donasset:* like *esset* above, in the subj. because the prosecutor's view of the matter is indicated.

32 *L. Antistius:* the only man of the name to whom this can possibly refer was tribune in 58 B.C., and prosecuted Caesar (Suet. Iul. 23), but most likely we should read *P. Antistius*, tribune in 88 B.C., whom Cic. praises for eloquence in Brut. 226.

33 *fundum Spoletinum populum:* see § 21.

P. 39.

1 *de suo iure:* so 22, l. 22 *non de nostris, sed de suis rebus.*

2 *lege Apuleia* "as the Apuleian law provided". It is probable that Saturninus, besides his famous *lex agraria*, carried two *leges de coloniis deducendis*. The colonies contemplated were settlements of full Roman citizens, since Aquileia, founded in 181 B.C., was the last of the Latin colonies. At the foundation of the burgess colonies of Parma, Mutina and Saturnia in 183 the franchise was conferred, under the provisions of a law similar to that of Saturninus, on a few Latins, as also in 184 when Potentia and Pisaurum were established. Cf. Brut. 79.

5 *negabat:* the laws of Saturninus were declared invalid by the Senate. No doubt Marius had exercised his privilege before the declaration was made, but still it could not reasonably be contended that Matrinius was entitled to the franchise, when the law on which he rested his claim was swept away. The acquittal was probably due wholly to the influence of Marius.

§ 49.

nihil similitudinis: the case of Matrinius was so weak that Cic. is obliged to declare that it bore no resemblance to the case of Balbus.

9 *quis...esset:* "who would be found", *esset* is in an apodosis, the protasis to which (*etiam si exquireretur*, or words of the sort) is unexpressed.

11 *dilectum:* cf. 47, l. 23.

in defendenda: "while engaged in defending".

13 *ardor oculorum:* this reminds us of the famous story of the slave (or, as Plutarch calls him, *ἱππεὺς Γαλάτης*) who went into the dark dungeon at Minturnae to kill Marius, when "*λέγεται τὰ ὄμματα τοῦ Μαρίου φλόγα πολλὴν ἐμβάλλοντα τῷ στρατιώτῃ φανῆναι*" (Plut. Mar. 39).

17 *gratiosos:* "personally popular".

18 *si quisquam:* the condition here implies a negative, so *quisquam* can be used.

19 *immortalis:* the emphatic position at the end of the sentence shews that the word is a predicate, and not a mere epithet.

§ 50.

20 *Cn. Pomp. pater:* father of Magnus and *legatus* in 90 B.C. to the consul P. Rutilius Lupus; in 89 he was himself consul and won some great battles.

Italico bello: Arch. 8, p. 24, l. 8.

21 *P. Caesium...qui vivit:* probably the P. Caesius to whom a short letter of Cic. is addressed (Fam. 13, 51) written in 46 B.C.

22 *Ravennatem:* the *foedus* of Ravenna is known only from this passage. It was one of the most important towns of Cisalpine Gaul. If, as is commonly supposed (see Marquardt—Mommsen, Röm. Alterth. 4, 60), all *civitates foederatae* in *Gallia Cispadana* benefited by the *lex Iulia* of 90 B.C. and by the *lex Plautia Papiria* of 89 B.C., it is not easy to understand why Caesius had to depend on the favour of Pompeius for the citizenship. It is possible, but not likely, that Ravenna was one of the towns which did not adopt the *lex Iulia* (cf. § 21), and that Pompeius enfranchised Caesius during the time between the passing of the first and of the second law.

23 *Camertium:* above, 46, l. 10.

24 *P. Crassus:* n. on *Crassos*, 40, l. 3.

25 *foedus...putatur:* n. on 21, l. 16. *Putatur* seems to imply a doubt in Cic.'s mind.

27 *Sulla:* see Introd. p. 13. For the reading *servos* see Appendix.

29 *Metellus:* above, 40, l. 4; for *modestia* (loyalty to the laws) see n. on Arch. 9, l. 23.

32 *Aveniensem:* of Avenio (Avignon) a town of Gallia Narbonensis.

33 *vel nimium parcus:* probably no particular acts of Crassus are referred to; the meaning is that he was in policy opposed to extensions of the franchise.

§ 51. P. 40.

2 *iudicium:* n. on 35, l. 6; *factum:* cf. 6, p. 23, l. 9.

6 *in uno:* n. on 6, p. 23, l. 5.

7 *bello Africano:* n. on 16, l. 13.

Mamertinos: the inhabitants of Messana, descendants of the Italian freebooters who captured the city in 281 B.C.

9 *ceteris praemiis...civitate:* so Arch. 5, p. 23, l. 1 *civitate ceterisque praemiis.*

suo...periculo: so 23, p. 29, l. 3.

14 *de civitate exterminari:* "expelled from the community". Cic. frequently makes *de*, for *ex*, follow verbs compounded with *ex*.

15 *noster: i.e.* Ennius (in his *Annales*); cf. Arch. 18, p. 28, l. 8, n.

Hannibalis...imperatoriam:=imperatorum omnium. Cic. is fond of replacing the gen. by an adj., for which see n. on Arch. 3, l. 6.

16 *erit:* for the readings see Appendix.

17 *sit:* omission of *quis* (indefinite) or *aliquis*; so in Caec. 54 *qua velit* for *qua quis velit*; cf. Mur. 16, Tusc. 4, 17.

18 *habent: sc. imperatores,* to be supplied from *imperatoriam* above.
civis:=in civium numerum: so in 30 p. 32, l. 5 and 32, l. 29.

20 *nobilitatis:* here collective=*nobilium.*

§ 52.

22 *hominum...virorum:* n. on Arch. 16, l. 7.
virorum interp. iuris: for the double gen. see above nn. on 13, l. 11 and 41, l. 22.

23 *huic quaestioni:=quaestioni quae de his causis iudicatur.* It is very doubtful whether there was a special court for trying cases of citizenship; see Arch. Introd. 16.

25 *etiam:* unusually late in the clause; so in Off. 1, 35 qu. on 31, l. 21.

26 *essent...iudicaturi:* above, n. on 7, l. 22.
lege Papia: see Arch. Introd. 12, 13.

27 *repetentibus:* n. on 38, l. 12.

28 *publice:* "though the prosecution was officially conducted".

§ 53.

33 *quem constaret: quem* is subject to *fuisse* understood, and the whole of the rest of the clause acts as subject to *constaret*; cf. n. on 29, l. 8, also 44, l. 20; for the omission of *esse* with *donatum* see passages referred to in index to Arch. s.v. *esse.*

P. 41.

1 *cognoscite:* so below, l. 28.
multis rebus: "on many occasions"; Nägelsbach qu. Quint. 75 *fides multis locis cognita*; cf. also Fam. 6, 8, 1 *omnibus rebus perspexeram.*

2 *re ipsa:* "in very fact", *i.e.* not merely in theory.

3 *cum Latinis omnibus:* the first *foedus* between Rome and the Latins is referred by the ancient authorities to the time of the conquest of Alba by Tarquinius Priscus; another is said to have been concluded in 493 B.C. by Cassius (Liv. 2, 33, Dion. 6, 95) who seven years later, being again consul, admitted the Hernici to the league.

5 *columna ahenea:* there has been endless discussion among scholars about this monument. Livy (2, 33) speaks as though the *foedus cum Latinis* (*i.e.* that of 493) *columna aenea insculptum* remained to his time, while Dionysius (4, 26) relates that a στήλη χαλκῆ was then preserved not near the *rostra*, but in the temple of Diana on the Aventine; he says moreover, that the letters inscribed had the shapes used in old times in Greece. He states indeed that the *foedus* it contained was that of Tarquinius Priscus, but when (6, 95) he speaks of the treaty of 493 he pro-

fesses to quote its exact clauses, so that his story is most likely, at bottom, the same with that of Cicero. The story has in recent times been treated with great incredulity. The latest historian of Rome (Ihne) has not even had the patience to examine it fairly; his remarks (vol. I. p. 70) are inaccurate and most unjust to Dionysius. I believe myself that a tablet of the kind was actually seen by Cicero, but that it contained not the original *foedus* of 493, but a copy made in 358 when it was renewed.

nuper...meminimus: nuper points to a time not long past; *meminimus* is not the same as *ego memini*, for the existence of the *columna* was a fact which must have been within the knowledge of many of Cic.'s hearers. It may quite possibly have been removed to the temple of Diana.

6 *L. Cossinius:* probably a man mentioned by Plutarch, Crass. 9, who fell while serving as *legatus* to the praetor P. Varinius, in command against Spartacus, 73 B.C.

7 *Tiburs:* the town of Tibur, like Praeneste, remained in the position of a *civitas foederata* down to the time of the Lex Iulia (90 B.C.).

8 *damnato T. Coelio:* cf. Introd. p. 6.

§ 54.

11 *An...non potuit:* for form of sentence cf. Arch. 17, l. 25, n.

12 *anne:* note the succession *an—anne—an—an*. No reason can be assigned for the variation. Though *anne* is comparatively rare, it occurs both in direct and in indirect questions in authors of all epochs, and does not appreciably differ from *an* in meaning.

13 *de nobis spolia:* an invidious expression is chosen, as the rôle of *accusator* was unpopular at Rome.

17 *lege Servilia:* probably passed about 104 B.C.; fragments of a law generally identified with it are still preserved. It related to the offence *repetundarum* (illegal exactions by officials) and provided that a Latin who conducted a successful prosecution for this offence should receive the full franchise.

principes viri etc.: i.e. the Senate; see below, n. on l. 22.

18 *Latinis, id est foederatis:* observe that *id est* is often, as here, introductory not to a mere explanation, but to an emphatic extension of the original statement; so 24, l. 19 *libertate, id est civitate.*

19 *passi sunt:* these words have reference not to the time when the Servilian law was passed, but to the period of the *lex Licinia Mucia*, which was especially promoted by the Senate, and directed against the Latins, yet no attempt was made to deprive them of the privilege which the *lex Servilia* gave them.

ius...reprehensum: see Appendix. The phrase *reprehendere ius* in the sense "to censure a privilege" is strange; possibly, however, *reprehendere* here means literally "to pluck back" (cf. Acad. 2, 139) and so "to put a stop to".

20 *cum praesertim:* "and that though"; cf. n. on Arch. 19, l. 22.

21 *nomen:* i.e. *repetundarum*, the mere sound of which, Cic. implies, was hateful to the Senate.

22 *calamitate:* n. on 28, l. 27. The statement contained in the clause is not strictly correct, for the Servilian law subjected to the jurisdiction of the *quaestio repetundarum* not merely senators (among whom all the magistrates from quaestors upwards were included) but others not necessarily members of the Senate, viz. sons of senators, the *tresviri agris dandis*, the *tresviri capitales*, and the *tribuni militum quattuor primarum legionum*.

23 *dubitandum fuit etc.:* "was it (viz. at the time referred to) a doubtful point that in a matter where the boon won in the courts was allowed validity, in the same matter the decisions of generals were of authority?" That is, "it is clear that those statesmen who thought prosecution a legitimate mode of winning the citizenship, must have equally admitted the validity of the franchise when conferred by commanders". For the reading *iudiciorum* see Appendix; the reader must be careful to make the gen. depend on *praemia* not on *genere*, which is here left, as is frequently the case in Cic., without a defining genitive; *rerum*, or *causarum*, or some word of equally unrestricted import, must here be supplied, the whole phrase being equivalent to *in eis rebus, quae ad civitatem pertinent*. For *genere* cf. Att. 16, 5, 2 *quam is me in omni genere delectarit*, ib. 1, 8, 2 *in eo genere studio efferimur*, Tusc. 3, 11 *quo in genere Athamantem furere dicimus* (so the passage should be read; edd. *quo genere*, without *in*).

26 *ceteris:* the context, compared with § 21, shews that laws opening the *civitas* to individual *Latini* are meant (hence the insertion of *hominibus* as opposed to *populos*).

28 *civitatis:* n. on 10, l. 14.

§ 55.

30 *religione:* here subjective; "religious *feeling*" as opposed to external worship (*caerimonia*); so Verr. 4, 84 *Mercurium qui sacris anniversariis ac summa religione coleretur*.

31 *de Graecia:* according to Dionysius (6, 17) the worship of Demeter was established at Rome in 496 B.C. at a time of famine.

per Graecas curata: observe that *per* does not introduce the agent after the passive verb; after *curata* supply *a populo Romano*, the priestesses being only instruments; cf. 37, l. 7, n.

32 *Graeca omnia nominata:* "all the terms used are Greek". *Nominare omnia Graeca=nullum verbum nisi Graecum usurpare.* So Fin. 3, 5 *Stoici plurima nominaverunt*, "the Stoics have invented many technical terms", where Madvig's reading *novaverunt* does not suit the context nearly so well.

33 *monstraret et faceret:* here *monstraret=doceret*, since the rites consisted greatly, as in Greece, of mysteries; cf. Leg. 2, 21 *neve quam*

initianto nisi ut adsolet Cereri, Graeco sacro. Facere, like *operari*, ἔρδειν etc. is technically used of performing religious rites.

P. 42.

2 *peregrina...civili:* note the chiasmus, *peregrina* being opposed to *civili*, and *externa* to *domestica*. So *civis* and *peregrinus* are often contrasted, as in Verr. 4, 77; cf. also Caes. B. C. 2, 5, 5 *vel domesticis opibus vel externis auxiliis.*

4 *foederatarum:* for Neapolis see above 21, l. 16. Velia (Elea) in Lucania, a Greek state, was bound by treaty at least as early as the first Punic war (Polyb. 1, 20, 14) to supply ships to Rome (cf. Liv. 26, 39, 5).

6 *datam: sc. lege Julia*; *de senatus sententia:* cf. 19, l. 25 *de consili sententia*; in 19, l. 23 however we have *ex senatus sententia.*

7 *Flaccum:* in 98 B. C.

8 *Veliense:* the abl. in *-e* from adjectives in *-is* when derived from names of places is not uncommon, though the form in *-i* is regular. See exx. in Neue, Formenlehre 2, 30 (ed. 2).

10 *factam non esse: i.e.* legally and constitutionally, the law having no validity.

11 *arbitramur: i.e.* "do we, as a matter of fact, think?" *arbitremur* would be "does any one expect us to think?"

§ 56.

13 *peritissimis:* n. on 45, p. 38, l. 4.

14 *postularet:* not *postulabat*, because Cic. does not wish to place the fact on his own assertion, but refer it to the general judgment—"more than the matter was generally thought to require".

16 *invidorum:* Baiter *invidiosorum*, but in good Latin *invidiosus* rarely means "one possessed by a feeling of *invidia*"; this use, where found, is poetical. Moreover *invidi* and *malevoli* are often joined in Cic., as in Tusc. 4, 28.

17 *quos:* probably=*malevolos etc.*, not *malevolorum animos.*

ut. ut: note the two parallel clauses with *ut* placed side by side, without *et* or other connecting particle.

19 *in iudicio: redundare in* generally is followed by accusative; here, however, the abl. indicates the space within the limits of which the motion takes place; thus Lucr. 6, 712 *Nilus in aestatem crescit campisque redundat.*

illa: explained by *tum pecuniam, tum luxuriam, tum Tusculanum.*

20 *aspergi:* cf. Orat. 87 *huic generi orationis aspergentur etiam sales.*

21 *invidiosa: i.e.* not got in a way which ought to excite *invidia.*

23 *quae...notabatur:* "which was not stigmatized by any special charge of profligacy, but by mere general abuse". Observe that *non ullo* could not be substituted here for *non aliquo.*

24 *Tusculanum:* Cic. himself expresses disgust at seeing Balbus in so fine a mansion; see Att. 7, 7, 6; ib. 9, 13, 8. There were people who expressed a similar disgust for Cic. See Att. 4, 5, 2 (a letter written in the same year with this speech) *ei subringentur qui villam me moleste ferunt habere, quae Catuli fuerat, a Vettio me emisse non cogitant.*

25 *Q. Metelli...L. Crassi:* probably Q. M. Pius, and the orator Crassus (cf. 49, l. 7).

de: in Cic. *emere de aliquo*, in other writers *emere ab aliquo* is the commoner construction.

26 *Soterico Marcio:* possibly an artist whose carvings Seneca (Gellius 12, 2, 11) mentions, though not with approval.

27 *Vennoni Vindici:* only known from this passage.

tenebat: sc. memoria, as in 17, l. 22; different from the use above, in 14, l. 26.

29 *non legibus...pervenire:* "and do not devolve like wardships by the operation of the laws". The guardians of children under age were usually appointed by the father's will; if the nearest male relatives on the father's side (*agnati*) who were competent were passed over, it was regarded as a serious slight. In the absence of a will the guardianship passed to these *agnati* and was called *tutela legitima.*

§ 57.

31 *Clustuminam:* one of the old 21 tribes dating, according to Livy, from 494 B.C. The territory attached to this tribe was round the old Sabine town Crustumerium (also called *Crustumeria* and more rarely *Crustumium*), conquered by Rome at an early date (Liv. 2, 19). The adj. *Crustumerinus* also occurs in Varr. L. L. 4, 14.

32 *legis praemio...legum praemiis:* for the expression cf. Acad. 2, 1 and above 33 *obtestatione legis*, with n. For the various laws granting the privileges here mentioned for successful prosecutions see Introd. p. 6.

33 *praetoriam sententiam:* senators ranked, according to the highest official grade reached by them, as *consulares, praetorii, aedilicii, quaestorii*, and were called upon to give their opinions in that order. A *praetorius* was said to give a *praetoria sententia.* Dio Cassius 36, 23 mentions a man who gained the *insignia* of a consul by a successful prosecution.

P. 43.

1 *adoptatio Theophani:* = "adoption by Th." For the circumstance see Introd. p. 6. The genitive in *-i* from Greek names in *-es* is regular in Cic.; see my ed. of Arch. p. 71.

1 *per quam...adsecutus:* it is impossible to state exactly the meaning of these words. Perhaps *propinquorum* means "those who by the adoption became the *propinqui* of Balbus". Klotz thinks that Theophanes had somehow acquired property which had once been in the family of Balbus, and that by the adoption the property returned to the family. Th. may have married into the family of Balbus.

5 *more hominum:* "as men will".

6 *conviviis...circulis:* cf. Liv. 34, 61, 5 *in circulis conviviisque celebrata sermonibus res est,* Cic. Att. 2, 18, 2 *sermo in circulis et in conviviis est liberior.*

vellicant: "pull to pieces"; Hor. Sat. 1, 10, 79 *vellicat absentem Demetrius,* and cf. Or. 1, 265 *ius civile pervellere.*

illo..hoc: the contrast here is between the rarer, less familiar (regarded as more remote) and the commoner, more familiar (regarded as nearer).

7 *dente:* exceedingly common in this use in Martial, who has even *lividus dens* for "the tooth of envy".

§ 58.

amicis L. Corneli. see Introd. p. 1.

11 *bonum:* as above, 54, l. 22.

non concessit: "has he not given place?" Cf. Mur. 57 *dignitati eorum concessit.*

12 *potentissimi: i.e.* Caesaris, whom Cic. treats in many speeches of this period as the author of his exile.

14 *alterius rationis:* "of the other way of thinking"; *i.e.* the adherents of the Senate; so Sest. 101 *homo florens in populari ratione.*

16 *in me unum:* "all the impetus of that national crisis was directed against me alone". The phrase *inclinatio temporum* (ῥοπή) is exceedingly common in Cic.; *inclinatio* indicates rapid downward movement, beginning immediately after a critical point is reached, and it is often joined with *momentum.* In Pro dom. 46 we find *inclinatione communium temporum.*

17 *exsultavit:* an extremely favourite metaphor with Cic.

18 *officio:* the three succeeding nouns are explanatory of this word. This form of expression is one Cic. uses much; see exx. in Nägelsbach, Stilistik, § 177.

§ 59.

21 *dixi: i.e.* in § 2.

22 *spero...esse probata:* so Arch. 32 *quae dixi confido probata esse omnibus*; below, 62, l. 30.

24 *hoc...eius:* MSS *huius,* but *hic, ille* are very rarely repeated in the same clause; where a second pronoun is needed *is* takes their place.

pro facultate, pro loco: "considering his opportunities and the position he was in"—as friend of Caesar, the quondam enemy of Cic.

25 *non a suis quos nullos habet:* "not by his own enemies, of whom he has none".

§ 60.

30 *erat...geramus...temperemus:* here *erat* is used like the Platonic ἦν—"was, as Pompeius stated". This use is common in Cic.'s philosophical writings; *e.g.* Acad. 1, 23. If imperfect tenses had followed, the statement would have been merely looked at as part of Pompeius' speech; the present tenses lay stress on the fact that the principle laid down is permanent, and in force at the moment of speaking.

31 *implicantur:* usually followed in Cic. by the ablative without *in*; cf. Pis. 70 *implicatus familiaritate*. The statement found in some lexica that Cic. uses the dative construction is a mistake. In Brut. 174 *oratoribus* and in De Div. 1, 79 *naturis* are ablatives.

32 *amicis:* a dative; so Hor. Od. 3, 24, 18 *privignis mulier temperat innocens* and Verr. 2, 17 *cuiquam etc.*, ib. 1, 154 *sociis*, for which Liv. 6, 17, 8 has *a sociis*, a constr. not found in Cic., though often attributed to him; it occurs in Caes. B. G. 1, 7, 5, and the poets. It is said that Cic. does not use the Lat. of the personal pronoun after *temperare*, though it is found in prose of his time, as Caes. B. G. 1, 33, 4, (Cornificius) Ad Her. 4, 25, Plancus in Cic. Fam. 10, 7, 2.

P. 44.

1 *cum...viderent:* observe (*a*) the elliptic nature of the expression, which is common with *cum praesertim* in Latin, as with ἄλλως τε καί in Greek, the sense fully expressed being *ut aequum est multis de causis et praesertim cum*; (*b*) the tense of *viderent*, the clause being looked on (contrary to English idiom) as part of the unfulfilled condition introduced by *si*; (*c*) the separation of *cum* from *praesertim* by *me*, which is very unusual; so however Pis. 68 *cum esset p.*, Phil. 1, 27 *cum tanta p. gladiorum sit impunitas*, Verr. 3, 68 *cum ille magno p. emisset.*

5 *virorum...hominum:* so above, 52, l. 22.

6 *muneri:* a duty of legal, as opposed to *officio*, a duty of moral obligation.

7 *sapiens:* Cic., more sparingly than later writers, but still frequently, applies to inanimate things adjectives which properly denote some activity of a person; so *sapiens sententia* in De Or. 1, 31 and 3, 13, *temperatio* in Leg. 3, 17, *excusatio* in Att. 8, 12, 2. Other exx. in Nägelsbach § 71, 1.

§ 61.

8 *voluimus: i.e.* I, Cicero; *alii*=others of my party. The accusative of a neut. pron. after *velle* is admissible; but no other; cf. 38, l. 10; 52, l. 32 *hoc contendere.*

9 *optenta:* in spite of the traditional objection to translating *obtineo* by "obtain", it will be seen that this passage admits and almost requires such a rendering.

dolorem—luctum—maerorem: dolor is grief as felt at the heart, *luctus* as expressed by material signs, in the dress, for instance, *maeror* as expressed by the condition or action of the sufferer, for example, by the gloom on his countenance. The following is a striking passage—Att. 12, 28, 2 *maerorem minui, dolorem nec potui nec si possem, vellem.*

11 *genere...numero:* the thanksgiving for victories lasted, no doubt, originally, only one day; three days then became usual; for Marius ten were decreed; for Pompeius after the Mithridatic war twelve (Prov. Cons. 26); for Caesar after conquering the Helvetii, and the union of nearly all the German and Gaulish tribes in 58 and 57 B. C. fifteen days (*quod ante id tempus accidit nulli*, as he himself says, B. G. 2, 35, 4). Later the extravagant number of 20, 40 and even 50 days was reached. The *senatus consultum* by which the *supplicatio* of 56 B. C. was decreed contained some novelties, specially honourable to Caesar, though what these were cannot be exactly determined. Cf. Prov. Cons. 25 *C. Caesari supplicationes decrevistis, numero ut nemini uno ex bello; honore, ut omnino nemini*, ib. 27 *dignitas verborum, honos, et novitas et numerus dierum Caesaris ipsius laudi gloriaeque concessus est*, Pis. 45 *ut senatus eos qui bene rem publicam gesserint, novis honoribus afficiat, et numero dierum et genere verborum.*

13 *angustiis:* caused by the extraordinary expenditure on the corn-supply; cf. 40, l. 7, Qu. Fr. 2, 5, 1.

14 *decem legatos:* the number of *legati* (adjutants, staff-officers) allowed as a rule to each provincial governor was three; but ten were appointed to serve under Caesar, nine of whom are mentioned by him in B. G. 7, 90. See Fam. 1, 7, 10 *et stipendium Caesari aecretum est, et decem legati, et Sempronia lege ne succederetur*, also Prov. Cons. 28.

15 *lege Sempronia:* this law, passed by C. Gracchus, required the Senate to designate the provinces which the consuls should govern, before the consuls themselves were elected. The question was whether the provinces held by Caesar should be assigned for the consuls of 55 B. C.; if other provinces were assigned to these consuls, it became possible to prolong Caesar's command in Gaul, which was accordingly done in 55 B. C. for five years.

16 *princeps et auctor:* so Cic. boasts in Prov. Cons. 26—28.

neque...putavi potius: "nor did I deem it more advisable".

17 *adsentiri dissensioni etc.:* "to assent to the expression of an enmity I once felt", *i.e.* to speak in favour of those who in the Senate attacked Caesar.

18 *convenire:* "to adapt myself to the crisis of my country". Nägelsbach wrongly makes *temporibus*, as well as *dissensioni*, dependent on *adsentiri*, and *convenire* directly dependent on *putavi*.—"I thought it fitting that etc." The phrase *adsentiri temporibus* is certainly inadmissible.

20 *neque...moderari:* a much-quoted maxim, which, divorced from its context, has been often misunderstood and unjustly blamed. Cic. is far from laying down the position that expediency is the only guide in politics; he merely condemns the vulgar notion of political consistency, which required political enmities to be fought out to the end, without regard to the general good.

21 *navigium:* I think it most probable that after this word an infinitive like *dirigere* has fallen out. The text is very awkward as it stands; if it is retained the words *atque cursum* must be regarded as accidentally misplaced and must be construed as though they followed *sententiam*.

§ 62.

23 *in quos:=in eos, in quos.*

25 *illam:* for *illud*; see above, n. on 15, p. 26, l. 7.

26 *pertinacia:* "obstinacy"; the word generally expresses moral disapproval. Perseverance in a good course is *pervicacia*. In a well-known passage from the *Myrmidones* of Attius (Ribbeck 4—9) the two words are strongly contrasted, and the speaker, to whom *pertinax* has been applied, stoutly objects, and demands to be called *pervicax* instead; cf. also Part. Or. 65.

27 *cum...coniunctam:* "not without an admixture of cruelty".

28 *certorum:* often used exactly like our word "certain" of persons well known, whom the speaker does not wish to name; *e.g.* Marcell. 16 *quotiens eum vidi insolentiam certorum hominum extimescentem.*

30 *confidimus:* above, 59, l. 22, n.

§ 63.

33 *fraudem:* "loss"; as in the phrase *fraudi esse alicui.*

P. 45.

1 *adulescens: i.e. cum esset a.*; cf. 11, l. 20 *puer.*

2 *prudentissimo:* here "skilled in reading character".

familiarissimis: n. on Arch. 7, l. 31.

4 *detuit:* "entered his name for a reward"; for the expression see n. on Arch. 11, l. 15.

7 *commodorum: i.e.* he has been enriched by Caesar.

9 *talis viros:* a stock phrase for flattering a Roman jury; so Clu. 147 *iudices tali dignitate praeditos.*

§ 64.

10 *regione...definiunt:* cf. Arch. 23, l. 31 with the passages quoted in my n.

14 *ipsius:* put here because *eius* would have been ambiguous; so 3, l. 5.

15 *suam :=secum*, so Fam. 4, 9, 1 *litteris meis=a me.*

17 *facto :* so 6, p. 23, l. 9.

18 *periculo :* n. on Arch. 13, l. 8.

24 *hoc magistro :* not "by this teacher", which would require *ab*, but "with him for a teacher"; *erudiri*="to be schooled". Cf. Tusc. 1, 39 *errare mehercule malo cum Platone quam cum istis vera sentire*, Or. 42 *me autem qui Isocratem non diligunt una cum Socrate et cum Platone errare patiantur.*

25 *iudicato :* a matter settled by previous judicial decisions; cf. § 52.

26 *in re tam inveterata :* "where a practice is so deeply rooted".

§ 65.

30 *hoc iudicavit :* "has pronounced for that course"; cf. *iudicium senatus* above, 35, l. 16.

33 *peccatorum :=de peccatis*; so above, n. on 23, l. 5.

P. 46.

2 *accedat...ut :* observe that the other construction with *quod* could not be used here, because the chief verb in the explanatory clause refers to an event still in the future.

APPENDIX ON THE TEXT.

a. General remarks.

Nothing like a complete *apparatus criticus* can be given here, since the chief (though not the only) object aimed at is to give junior students some idea how the text is worked out from the MSS, reasons being given for the most important alterations.

My text is mainly founded on that of Baiter, who edited the speech for the second edition of Orelli's Cicero (Zürich, 1856). The evidence for every reading has been well weighed before the reading has been allowed to pass. I have availed myself of all the critical comments on the text to which I could obtain access. In a number of passages I have felt obliged to abandon Baiter's readings and adopt those of other scholars. In the critical comments on the following places suggestions of my own will be found (some of which have been printed in my text) viz. 3, l. 23; 5, l. 16; 6, l. 32 (*bis*); 8, l. 24; 9, l. 9; 14, l. 21; 14, l. 25; 18, l. 11; 19, l. 24; 25, l. 22; 25, l. 29; 27, l. 19; 31, l. 24; 32, l. 31; *ib.* l. 2; 33, l. 7; 33, l. 10 (*bis*); 33, l. 18; 39, l. 24; 41, l. 23 (*bis*); 41, l. 24; 42, l. 26; 50, l. 28; 54, l. 17; 54, l. 19; 54, l. 24; 60, l. 6; also in the explanatory notes on 16, l. 15; 29, l. 9; 43, l. 14; 46, l. 11; 61, l. 21.

Baiter's text is founded mainly on three MSS. The most important (called by him P) is at Paris and is commonly assigned to the ninth century, but has interpolations by a later hand, of about the twelfth. Next in authority is G (*codex Gemblacensis*) now at Brussels, and pronounced to belong to the twelfth century. The third is the *codex Erfurtensis* denoted by E; it is now at Berlin. Its readings for the most part agree with those of G. When P G E agree Baiter denotes the consensus by C.

The most recent text of the speech for Balbus is that by Kayser in Vol. v. of the Tauchnitz edition of Cicero, edited by himself and Baiter. This text generally differs but slightly from that of Baiter; in one respect —orthography—it is immensely better.

In the notes that follow, I shall use Baiter's marks, and shall denote his text by B, that of Kayser by K. P^1, G^1, E^1 denote that the reading is in the hand of the original writer of the MS; P^2 *etc.* that the reading is in a later hand.

Of critical essays on the text that of Madvig in his Opuscula (II. pp. 14—34) is *facile princeps*. It has rendered obsolete most of the com-

ments of preceding scholars. In Prof. Mayor's "Bibliographical Clue to Latin Literature", and in Teuffel's History only one essay subsequent to that of Madvig is mentioned—Büchner's "Annotationes criticae ad orationem Pro Balbo" (Schwerin 1866). I have found it pretentious and worthless. Scattered about in various quarters I have come across a few critical comments by Cobet, Pluygers and others, but such aids to the study of the text are few and far between.

b. Orthography.

The reasons for most of the spellings adopted are given in Appendix B to my edition of the speech Pro Archia. When they are to be found there they will not be repeated here.

Genitives sing. of proper names in *-ius* end in *-i* not *-ii*. BK print *-ii* everywhere in this speech though the weight of MSS testimony is strongly in favour of *-i*. Here are the passages where the MSS read the true form. CORNELI: PG^1 E in 56, l. 21; PG^1 in 1, l. 2; 6, l. 14; 18, p. 26, l. 33; 58, l. 8: P^1 in 6, p. 22, l. 32; 43, l. 4; P in 19, l. 22: G^1 in 65, p. 46, l. 5. In 58, l. 7 the reading of E, *Cornelia aut*, also points to *Corneli*, so does that of P^1, *Cornelio*, in 65, p. 46, l. 5, the *o* being due to the proximity of *maleficio*. POMPEI: C in 13, l. 11; PG^1 E in 11, l. 29; 13, l. 8; 51, l. 1; 65, p. 46, l. 6: P^2 GE in 6, p. 23, l. 9. MARI: PG^1 in 46, l. 13; 49, l. 13. In 56, l. 27 the confused readings of the MSS all speak for *Vennoni Vindici* rather than *Vennonii Vindicii*. In only one place, 18, p. 27, l. 12, the MSS all give a form in *-ii*, viz. *Cornelii*.

Genitives sing. of neuter nouns in *-ium* end in *-i* not *-ii*. The MSS have far less frequently preserved the true form than in the case of the proper names. This may be due to the fact that the nominatives of the neuter nouns were more familiar to the copyists than those of the proper names, and so the genitives were more easily made to conform to the grammar rules current at the time. Yet we find the following exx. of the form in *-i*. P^1 has *consili* in 11, l. 29; *imperi* in 13, l. 7: P has *consili* in 13, l. 16; 19, l. 25: *aerari* in 61, l. 13. All the MSS give the form in *-ii* in 4, l. 13 and 15, p. 26, l. 7 (*iudicii*); in 4, l. 13 (*beneficii*); in 5, l. 18 and 17, l. 30 (*officii*); in 6, p. 23, l. 13 (*proelii*); in 13, l. 19; 34, l. 27; 39, l. 33; 49, l. 19; 51, l. 12 (*imperii*); in 38, l. 21 (*praemii*); in 38, l. 14 (*consilii*); 1, l. 6 (*ingenii*).

Nouns, adjectives and participles whose gen. plur. ends in *-ium* make *is* not *es* in acc. plur. masc. and fem. The letters *i* and *e* are perpetually confused even in P, yet C give *testis* in 42, l. 33, *expertis* in 20, l. 33; PG *civis* in 42, l. 33 and *civis fortis* in 51, l. 18; P *omnis* in 16, l. 12 and 58, l. 19; *civis* in 30, l. 26 and 49, l. 17; *praesentis* in 44, l. 22; *ignorantis* in 44, l. 29; *fortis* in 49, l. 17; *cohortis* in 50, l. 23; *talis* in 63, l. 9.

Condicio: so K, but B *conditio*. P has *condicio* in 15, l. 33 and 45, l. 28; elsewhere MSS give the form with *t*, i. e. 7, l. 8; 18, l. 33; 24, l. 17; 36, l. 25. So *ditio* in 25, l. 22. In 41, l. 24 E has *convicia* (which is right). P^2 G *convitia*, P^1 *convita*. How worthless the best MSS testimony is with regard to *-ti*, *-ci* may be seen from the following exx. P has *mendatio* in 5, l. 24; *puericiae* in 9, l. 31; *saentencia* in

11, l. 23; *arcium* in 15, l. 30; *provintiis* in 24, l. 14; *spetiem* in 39, l. 29; *Camercium* in 46, l. 10; *pertinatiam* in 62, l. 26; *Mutia* in 54, l. 20; *pronunciatum* in 11, l. 30. MSS have *nuntium* in 64, l. 13, which is right, the stem being originally *novent-* (*nov-* in *novus*).

Voltis: so P rightly in 13, l. 6; BK *vultis*; cf. *voltu* in 58, l. 14.

Litteris, not *literis* (in 3, l. 20); cf. Corssen, Ausspr. 1, 176, ed. 2.

Opsessum: so Madv. in 5, l. 30 (see crit. n.); in 6, l. 13 P has *opsessionis,* in 18, p. 27, l. 4 *optinere,* in 16, l. 20 *optrectatorum.*

Rettulisset (11, l. 27) P; *retulisset* GE; and in 32, p. 33, l. 5 *reppulerunt,* in PG. *Rĕtuli, rĕperi, rĕpuli* are without authority; see Neue, Form. 2, 472.

Adulescentulo: so PK rightly in 16, l. 10; B has *adol.* In 63, p. 45, l. 1 P has *adulescens.*

Intellego: so PGK in 18, p. 27, l. 11; B wrongly *intelligo.* In 27, l. 14 P has *intellegi,* and in 63, p. 45, l. 8 *intellego.*

Comminus: so PGBK in 23, p. 29, l. 4. There is plenty of evidence in favour of this form, which Orelli alters here to *cominus.* See Neue, 2, 756.

Cottidie: PGK *cotidie* in 43, l. 13 where B has *quotidie.*

Urguetur: P^1 in 59, l. 26, and it may have been written by Cic.; the MSS of Vergil give the form *urgueo* almost always.

Gerendus: so EK in 4, l. 10, but PGB *gerundus.* The latter form of the gerundive was probably only used by Cic. in legal and other archaic phrases.

Saeculi: so PBK rightly: Orelli *seculi.* The evidence is collected in Fleckeisen, Fünfzig Artikel, p. 27.

Heracliensium in 21, l. 16. Cf. Arch. p. 73.

Iapidum: so C in 32, l. 27; BK wrongly *Iapydum.* Cic. is not likely to have looked on the word as Greek, and the third vowel as Greek *υ*; therefore he is not likely to have written the *y.* The spelling *Sylla* for *Sulla* is wrong for the same reason, though given by C in 64, l. 20.

Offuerint: C rightly in 63, p. 45, l. 8; BK *obfuerint.* The combination *bf* was generally avoided by Cic.

c. Critical notes.

§ 1, l. 1 *valent:* so Ernesti for *valerent,* the confusion being of a sort extremely common.—l. 7 *voluntati paris:* edd. for *voluntatis parens.* The addition of *s* is very frequent, *e.g.* in 7, l. 18 PG have *actiones,* in Arch. 26 MSS *gratis* for *Grati.* The confusion of *e* with *i* is constant; so P^1 has *accusatores* in 7, l. 18 and *decente* in 11, l. 24. For the addition of *n* after a vowel see n. on 2, l. 11 *potuerim.*—l. 8 *alio loco:* Halm removes the stop and adds *dicturus,* but he is assuredly wrong; see my n. —l. 9 *hoc pono:* C *oppono,* from the dropping of *h* and coalescence of *oc* with *pono.*

§ 2, l. 10 *referenda:* C *adferenda,* prepositions in compound verbs being often capriciously interchanged.—l. 11 *potuerim:* G^1 *potuerit,* E *potuerint.* N is inserted and omitted with great variation in MSS; so P has *videbantur* in l. 15, *agerent* in 3, p. 22, l. 2, *liceant* in 26, l. 2, *fuerit* in 40, l. 9. PG^1E have *sint* in 40, l. 9; C have *fuerit* in 4, l. 14; PG^1

spectanti in 12, p. 25, l. 2. l. 19 *de ipso:* many edd. *de se ipso*, mistakenly; see my n. and cf. Madvig on Fin. 1, 67.

§ 3, l. 23 *recte cadere:* so I alter MSS *tractare*. Madvig gave *recte se dare* (so BK) for which he quoted Ter. Hec. 3, 3, 20, poeta ap. Cic. N. D. 3, 26 but from Cic. himself only Att. 3, 23, 15 *ut se initia dederint*; in which passage probably *se* should be struck out and *ceciderint* read for *dederint*; cf. the very next letter (3, 24, 2) *haec res quemadmodum ceciderit.* This use of *se dare* requires more confirmation from Cic. Weissenborn rejects it in Liv. 28, 5, 9; it is found in Verg. (Georg. 1, 287) Seneca Rhetor, Statius and other late writers.

§ 4, l. 6 *extremus:* PG curiously *exercitus*, E *ex* merely. K says *om. B* (*ed. Veneta* 1472) *fort. recte*; see however my n.—l. 15 *actorem:* so P^2GEK; P^1B *auctorem*. See n.

§ 5. l. 16 *re publica:* PG^1E *rei* merely, G^2 *re* merely. Old edd. took *rei* as gen. of *reus*, which was objectionable both on the score of sense and on that of syntax; see my n. The mistake arose from the contraction *rep.* for *re publica;* possibly however *populo Romano* should be read; cf. 10, l. 19 where C have *reip.* for *populo Romano* and 13, l. 7 *o populi Romani excellens dignitas.*—l. 19 *ei:* so G, but in an erasure; PE *et* which if genuine = *etiam*; *et* and *ei* are often interchanged; below, in 9, l. 30 C have *et* before *tribui.*—l. 26 *fatetur:* GE *fateatur*, a sort of error extremely common; C have in 19, l. 24 *videamus*, in 22, l. 24 *videatur*, in 36, l. 25 *sileatur.*—l. 29 *Karthagine esse opsessum:* so Madv. for P^1 *Kartaginem esse possessum*, GE *possessum esse*, P^2 *isse*, whence old edd. mostly *possessum isse*. That Balbus ever "went to take possession of *Carthago nova* for the Romans" is most unlikely; Madvig's is the best of many emendations.

§ 6. l. 32 *propria:* so Klotz for C *proelia*, which Madv. simply omits, retaining *talis* before *labor*. In support of *propria* see quotations in my n. K *praesidia*, in what sense I know not. *Praeclara* (cf. *plena laudis* below) might be read and would be a little nearer *proelia.*—l. 32 *pietas:* my emendation for P^1 *tas*, P^2 *talis* (so edd. mostly), GE *hic*, Halm *tantus*. I should like to see support for the constr. *labor in rem publicam*; for *insumere laborem in aliquam rem* (Cic. Inv. 2, 38) is a different thing. Further the four words *labor assiduitas dimicatio virtus* evidently ought to be taken in pairs, after a fashion of which Cic. is particularly fond, *i. e. labor assiduitas* go together, and *dimicatio virtus* together; cf. 36, l. 29 *comes benigni, faciles suaves*. This cannot be done if *labor* is construed with the preceding words. If *pietas* be objected to, *merita* might be read; cf. Orator 133 *merita in rem publicam.*—l. 6 *nulla nisi famae:* so Orelli and BK for P^1 *nulla si famae* (P^2 om. *si*), G *famem*, E *famam*. On Orelli's reading Madvig (Op. 2, 18) makes the somewhat weak remark "*concinnitas membrorum inter se relatorum hanc adiectionem* (seemingly the words *nisi famae*) *vix patitur.*" —l. 10 *est:* B for C *sit*, one of the commonest of changes, arising from the writing *natust*; found several times in this speech; *e. g.* 62, l. 24 *susceptum sit* is in C. Cf. Madv. on Fin. 3, 58.

§ 7. l. 15 *igitur est:* E om. *est*; this is very common; cf. Arch. p. 75.—l. 16 *donavit:* misled by *donavit* in l. 18 E om. all from this to *qui si* in l. 19; similarly GE om. *nostris* before *cum* in l. 12; cf. also

Arch. p. 75.—l. 16 *huius:* so P^1; P^2G *huiusce*, Orelli *huiuscene*; cf. however my n.—l. 20 *quin:* C *qui*, as in 11, l. 26 and 43 l. 1.

§ 8. l. 24 *ait:* G^1E *agit*, which may very possibly be right, *i. e.* "what line does the prosecutor take?" Cf. Cluent. 52 *sin autem illud egeram, nullum ad Scamandrum morte Habiti venturum emolumentum fuisse*, also Pro dom. 34.—l. 29 *cuncter:* after this in P several lines were left blank and filled in by a later hand. The addition (found with variations in GE) is pure conjecture, and being improbable, is not worth discussion.

§ 9. l. 30 *adesset:* C *abesset*, a very common variant.—l. 4 *cui:* so Madv. for *inquid*; first *cui* was written *quid*, then *in* added. M. also struck out *eius* before *consiliorum*.—l. 8 *quem:* Halm needlessly *quo quem*.—l. 9 *ultimae gentes:* so edd. for C *ultra regentes*, P with a gap between *t* and *r* of *ultra*, which seems to point to *ulteriores*, rather than *ultimae*.

§ 10. l. 15 *vero:* C *verum*, as though *imperia* were dependent on *postulanti*.—l. 19 *populo Romano:* C *reip.*, the contraction *p.r.* having been inverted to *r.p.*; cf. 5, l. 16; 20, p. 28, l. 4.—*nonne:* Orelli wrongly *non*; see my n.

§ 11. l. 21 *diceret:* P^1 *dicere*; *t* is very frequently omitted and inserted; so in l. 28 PG have *dubitasset*; ib. *esse* is in C; 14, l. 25 GE *esse*; 20, p. 28, l. 7 P^1 *resedisse*; 38, l. 11 PG^1E *dicere*.

§ 12. l. 33 *vixisset:* after this C insert *et*, which is very often omitted and inserted after verb-forms ending in *-et*; here *dixisset et* contributed to the mistake. So in 11, l. 26 C om. *et*; in 24, l. 13 GE have *nam et*; in 48, l. 31 P^1 has *donasset et*.—l. 2 *Graeci:* C *cum Graeci*, altered by Madvig.—l. 3 *religione...veritate:* P^1 *religionem veritatem*; this final *m* is lightly dropt and added. So in 17, l. 21 C *relinquam.—constrictam:* written over the line in P^2 and so may not be the word Cic. wrote; Halm suggests *vinctam*, comparing Font. 20.

§ 14, l. 21 *levioris:* so I have written for C *levius*; cf. n. on 54, l. 24 (*iudiciorum* for *iudicum*). Madv. remarked that *levius* could neither mean "a more venial offence", nor "a thing shewing a more worthless character", which latter sense would require *levium hominum*. This is just the meaning given by *levioris*. Madv. indeed says, "*nec levitatis est facere quod scias non licere*", but surely any one who is not *gravis* may be called *levis*. Lambinus read *non levius*, which Madvig commends, in spite of the fact that it leaves most of the objections to *levius* untouched. Bait. *peius*.—l. 22 *quam:* edd. for C *an*, which is quite out of place in a comparison.—l. 23 *non scire:* see my n. Halm (in Addenda to Orelli ed. 2) says P^2 has *non scire* on an erasure; this he thinks makes the reading very doubtful.—l. 25 *cum ius:* Madv. for *cuius*, a word which often gives trouble. Thus GE have *cui* for *cuius* in 16, l. 12; 17, l. 27; so E in 29, l. 21; cf. *ius* for *huius* which C have in 42, l. 29. Possibly here *qui ius* is what Cic. wrote.—l. 28 *praediti militari:* Orelli *militari praediti*. It was once the fashion for scholars to change the order of the words for the merest fancy. Thus Orelli has, against C, 15, l. 8 *labes atque macula*; 26, l. 5 *praemiis virtutis*; 29, l. 15 *iter ad ceteras*; ib. l. 16 *coniuncta est*; 30, l. 31 *civitatem se*; 32, l. 1 *est inquit*.—l. 29 *scire:* BK *se scire*, wrongly—see my n.

§ 15, l. 32 *eius:* edd. for C *et*; *eius* has first been written *ei* (cf. *cui* for *cuius*, n. on 14, l. 25, so in 52, l. 31 GE *mutanda ei* for *mutandae ius*) then changed to *et*, for which see n. on 5, l. 19.—l. 3 *libri:* C *liberi*; Bake *librarii* (cf. *librarioli* in 14, l. 29) which does not suit *litterae* below.—l. 6 *vitiis:* Madv. for P *ut iis*, C *citius*. Later C have *inquam*, as above, 9, l. 4 *inquit* for *cui*.

§ 16, l. 15 *inauditis honoribus singularibusque:* edd. for C *in singularibusque*.—l. 18 *niterent:* old em. for *niterentur*; the addition and omission of *ur* to verbal forms are frequent; so Arch. § 23 the MSS have *continet* for *continentur*.—l. 20 *huius visa atque perspecta:* so Halm most ingeniously for C *huius atque*. For *perspecta* C have *perfecta*; so in 5, l. 19 G¹E *confiet* for *constet*.

§ 18, l. 32 *ac:* P *at*; cf. Arch. 2, l. 16 n. B (see K) edited *ac*, but afterwards preferred *at*, wrongly.—l. 6 *poena essent:* edd. for C *poena* or *pene sunt*.—l. 11 *honores:* so C; but probably *honorem* should be read; see my n.

§ 19, l. 18 *poeniendam:* PE *poenitendam*, G¹ *penitendam*; cf. *Archita* for *Archia* in Arch. 18. Edd. before Orelli *puniendam*; the other form however is well attested, as may be seen from Neue.—l. 24 *ita...sanctum:* C *satis...sancti*, which cannot be justified by such phrases as *satis esse causae* in 5, l. 18. Edd. read *satis esse sanctum*, where *satis* is not wanted, as Madv. and others point out. I have therefore written *ita*; if the *s* at the end of *videmus* were written twice, the transition to *satis* would be easy. *Ita...ut* is explanatory in Cic. as well as limitative.

§ 20, l. 4 *populus Romanus:* C *praetor*, which was written *pr.* by contraction, as was *populus Romanus*; see n. on 5, l. 16; 10, l. 19.

§ 22, l. 30 *periculosis:* Madv. for C *periculis;* Orelli *in periculis*.

§ 23, l. 3 *laboris...commeatus:* Lambin. and others *labore...commeatu*, making all four substantives parallel to one another. The phrase *periculo suo* is against this; see my n.

§ 25, l. 22 *Magni armis adiutoribus tuis:* so I correct the MSS reading *magnis adiutoribus tuis armis*. The surname *Magni* being unfamiliar to the copyists was easily changed to *magnis*, and *armis* misplaced. The omission of *civibus* after *tuis* (to which Madv. objects, proposing *illis* for *tuis*) is natural after *civibus* in the line above. Halm proposes with much confidence (Addenda to Orelli ed. 2) *magnis adiutoribus illis usi armis subegimus*, comparing 25, l. 29; 26, l. 5; 38, l. 20. I cannot believe that Cic. would say *magnis adiutoribus*, meaning "important allies", though Vell. Pat. 2, 127 has the very expression, as Halm points out. Klotz *adiutoribus maioribus tuis*, which fails to account for *magnis*.—l. 24 *etiam ab imperatoribus:* P has *per* for *ab*; GE *per imperatores* which is not likely, since the generals are active and not mere consenting parties, like the nation (*per populum Romanum* in 37, p. 35, l. 7).—l. 29 *liceret:* C *non l.* Negatives are most capriciously added and dropt; so in 47, l. 21 C have *non nullo*, in 48, l. 33 *dixit* for *non d.*, in 63, p. 45, l. 6 and 52, l. 30 G om. *non*. Perhaps *ut nobis liceret uti* is the right reading.—l. 33 *paterna:* so PG; E *patria*; Halm *privata*. *Patria virtus* would generally mean the excellence of a parti-

cular father; so Sest. 48 *patria virtute praeditus filius.* However *patrius* and *paternus* are often almost interchangeable. Cf. Imp. Cn. Pomp. 21 *regnum patrium atque avitum*, with Sest. 57 *regnum paternum atque avitum.*

§ 27, l. 13 *quod:* so C; Halm, BK *quia*, not an improvement.—l. 19 *mutari civitate:* so I have written for C *mutare civitatem*, and below, l. 20 *mutari* for *mutare.*—l. 21 *civitatis:* Cobet *civem*; the great critic is in error, for the repetition of the antecedent in the relative clause is characteristic of Cicero. So Att. 2, 11, 1 *dies enim nullus erat, quo die*, Or. 132 *nullo modo animus audientis aut incitari aut teneri potest qui modus a me non tentatus sit.* A number of exx. are collected by Ellendt De Or. 2, p. 78. Cf. the expressions below, l. 25 *duarum civitatum esse* and l. 26 *non esse huius civitatis*, also 31, l. 19; 51, l. 17, Sest. 48. All these passages also condemn Orelli's addition of *civis* after *civitatis.*

§ 28, l. 25 *civis noster:* needlessly ejected by Pluygers; cf. 30, l. 26.—l. 30 *videmus:* Madv. for C *vidimus*, which would imply that Cic. had personal acquaintance with the facts, which occurred before his birth. *Videmus=audiendo vel legendo cognovimus*; cf. 55, l. 4.—*cum:* inserted by Madv.; Halm BK *nam.* Madvig's objection that, without *cum, potuissent* ought to be *poterant*, is unfounded. Though usually "I might have done this" is represented by *poteram* or *potui hoc facere*, still sometimes *potuissem* and *possem* are found, as in Off. 2, 14, Tusc. 1, 84 and 88, Fam. 1, 9, 2 and 14.—l. 3 *latum est ut:* C (except G^2) om. *est*; cf. Arch. p. 75.—l. 6 *his:* Halm BK *suis*, comparing 6, l. 11; see however my n.

§ 30, l. 23 *Athenis:* Pluygers *Atheniensis*, a mistake; it was at Athens that the enrolment of foreigners was commonest and there that the Romans would be most likely to become acquainted with it.—l. 28 *nisi...recuperassent:* ejected by Pluygers, who seems to think the principle of *postliminium* did not apply to these cases; see my n.—l. 5 *ne quem:* E *ut ne*, which may be right.

§ 31, l. 10 *varietatem:* after this down to *neve* in l. 11, P has a gap, filled up by a later hand, probably from mere conjecture.—l. 19 *ut...et:* P^1 *ut...ut* (so BK); the rest *et...et.*—l. 20 *generibus:* so C; edd. after Rumpf *regionibus* (comparing 30, l. 2). But *genus* and *gens* may well be contrasted as class and a subdivision of a class.—l. 24 *consecuti:* C *secuti*, which might be defended. In 38, l. 19 C have *servare*, in 58, l. 11 GE *non cessit.*

§ 32, l. 26 *at enim:* MSS *et*, which Madv. commends; Cic. is however evidently answering an argument of his opponent.—*Cenomanorum:* P^1GE *Genum horum*, P^2 (so edd. before Madv.) *Germanorum.* No treaty can have existed at the time between Rome and the Germans. Moreover the other tribes mentioned lay close to Italy, and the Gauls of Gallia transalpina, whom the Romans knew much better than the Germans, are not specified by name.—l. 30 *non est exceptum ibi:* C om.; added by edd.—l. 31 *in foedere Gaditano exceptum:* C om. *in* and *exceptum.* The former I have added, thinking it indispensable; see above, l. 28 and 33, l. 7. (Prepositions are notoriously easy to insert and drop out). All edd. who insert *exceptum* put it after *igitur*; I have

placed it after *Gaditano*; thus the clause nearly resembles l. 28 *quorum in foederibus exceptum est ne.* [I now see that Halm suggests *in.*]

§ 33, l. 7 *sacrosanctum:* Madvig ejects and BK bracket. I fail to see what is gained. Cic. *admits* that *sacrosancta foedera* were nominally excepted in the law. Would he then say "what is there in the law which makes *any* exception?" If the context be carefully read the general meaning is seen to be "how do you (the prosecutor) make out that the law contains any excepting clause *applicable to the Gaditane treaty?*" Either then we must suppose that Cic. has in this sentence only partially expressed his meaning, leaving it in part to his hearers to supply a limitation such as *ita ut ad foedus Gaditanum pertineret* [there is a similar ellipse below *in nec quicquam illis verbis...exceptum videretur* where *quod ad foedus Gaditanum pertineret* must be supplied] or the passage requires a more trenchant correction than that of Madvig. In the place of *aliquid* we might read *liquido ut*, supplying *foedus Gaditanum* from 32, p. 33, l. 2 as subject to *videretur*. It is an advantage to get rid of *aliquid*, for which Cic. would more naturally have written *quicquam*; *liquido* too is a favourite Ciceronian word. The meaning is "what words are there in the law which explicitly except the Gaditane treaty as being *sacrosanctum?*" Before leaving this difficult passage, I will call attention to 32, p. 33, l. 2 *exceptum est foedus si quid* (where C and edd. have wrongly *quidem*, which I have corrected) *etc.* which does not mean "any treaty is excepted if it is *sacrosanctum*," but "the Gaditane treaty is excepted under the clause (supply *illis verbis* as below, l. 18) *si quid etc.*" The sentence is slightly elliptic, as is the case very often when legal forms are quoted.—l. 9 *sanxit:* so Madv. for C *sanxisset*; a common change.—l. 10 *ipso poenae aut:* C have *ipso aut*, but after *legis* have *aut poenae.* I have put *poenae* after *ipso*, ejecting *aut*; for the sense see n. I have been unable to extract satisfactory sense from any of the numerous emendations heretofore proposed; I will therefore not discuss them. One difficulty remains. In l. 13 the *capitis consecratio* and the *obtestatio legis* are *contrasted*, while in l. 10 they are put on the same footing. Now before *capitis* in l. 13 the MSS have *a*; is this a remnant of *an* and ought we to read *utrum poena an capitis consecratione et...?*—l. 16 *latum esset:* after this C have *neque legem neque poenam gratam esse*, ejected by edd., but probably not wholly spurious, though it is difficult to alter the words so as to fit into the text.—l. 18 *est, esse:* C *esset, esse.* Probably *esse* ought to be struck out, as a *duplicatio* of the mistaken *esset.* See above, l. 7 and 38, l. 17.

§ 34, l. 27 *lumina:* so I have written (with Ernesti and others) for *fulmina.* See my n.

§ 35, l. 10 *hic:* inserted by Cobet.—l. 12 *sanctum:* Orelli *sancitum*, which occurs in Lucr. 1, 587, where Munro calls it "an almost unexampled form." In Cic. Pis. 90 Halm surprisingly reads it against the MSS.—l. 21 *ille:* Halm suggests *illis locus*, which is far from being an improvement.

§ 37, l. 3 *tamen:* Halm *tantum*, needlessly; cf. *tamen* in 38, l. 17. —l. 4 *a Gaditanis:* C om. *a*, which was restored by old edd.; it is necessary in Cic. with the passive verb.

§ 39, l. 24 *ac rei publicae, id est:* so Klotz for MSS *aut studio rei*

publicae, ii. It is absolutely necessary to understand *Poenorum* of the Carthaginians, not of the Punians in general, in spite of Madvig's protest (unfounded, I believe) that *sensu Poenorum* cannot mean *sensu in* or *erga Poenos*. Cic. cannot have meant to say that the Gaditanes had turned away their minds from every feeling natural to people of Punian race; moreover, unless the Carthaginians are meant, the words *ad nostrum imperium etc.* have no meaning. Madvig thinks that before *inferrentur* some ablative with *ab* has fallen out, denoting an enemy of Rome other than the Carthaginians. I have added *eos* before *moenibus* to suit my diametrically opposite view of the passage.

§ 40, l. 3 *Flaccos:* C *Horatios*, altered by Garatoni.—*Crassos:* C have *Cassios*, altered by Manutius (so in 52, l. 27 E has *Crasso*). The mention of the name *Brutos* suggested to an early copyist the name *Horatios* associated with it in early, and *Cassios* in later Roman history, and no doubt the fact that the poet Horace's name was Flaccus influenced the reading.—l. 9 *fuerint:* P *fuerit* and BK mistakenly; for *si qui* ought then to be *si quis* or else a noun like *civis* ought to be inserted.

§ 41, l. 23 *audita:* CBK *inaudita*. Though Cic. does occasionally use the verb *inaudio* (Plautine *indaudio*) the use, I believe, belongs solely to the Epistles and to distinctly colloquial passages elsewhere, as is the case with so many Plautine expressions found in Cic. Moreover he is not likely to have used the ambiguous participle. I therefore hold *in* to be an addition, and strike it out.—*ne forte:* my correction for C *fore* (omitting *ne*), Lamb. BK *fore ut*.—l. 24 *gravissima:* after this P has *autem*, G^1E *hoc* (an evident conjecture). The *a* of *autem* is a doubling of the last letter of *gravissima*, the *utem* a wrong writing of *istum*; the word should therefore be ejected. Halm BK keep it and suppose a lacuna (relating to Balbus) before *gravissima*.—l. 24 *in senatu convicia:* so I have written for C *senatus*, P^1 *convita*, P^2G *convitia*, E *convicia*, BK *consulta* (after old edd.). It seems unlikely that the Gaditanes should have fulminated a number of *senatus consulta* against the man.

§ 42, l. 26 *delectaris:* C and edd. *delectare*, the use of which form in Cic. for the second person sing. present indicative, I very much doubt. —l. 31 *poena notavit:* so B for C *poenatavit*.

§ 43, l. 9 *affecerit:* before this Rau (followed by K) with great probability inserts *ut*; see my n.

§ 46, l. 7 *religione? is igitur Iguvinatem:* so Halm for MSS *religionis igitur aequitate* (P *equitate*). In l. 26 P^1GE have *Iguinatium*, but the regular form is *Iguvini* for the inhabitants of *Iguvium*.—l. 9 *summa:* C om.; but *praeditus virtute* alone is scarcely Ciceronian Latin.—*idem... donavit:* C om.; supplied by Madv.

§ 47, l. 15 *quem iam:* Halm for PG *quoniam*, E *quem*. *Quoniam* here is no doubt due to *quoniam* in the line above.—l. 19 *legisset:* so old edd. and BK for C *egisset*. In the Addenda to Orelli ed. 2 Halm has this curious note, "*fort. si tanta bella gessisset, ut tandem foeda illa non correctio sed depravatio expellatur.*" What is the meaning of "*si tanta bella gessisset quanta et gessit et confecit*"? Baiter *si legatus obisset*. The MSS reading is almost demonstrated to be sound by Imp. Cn. Pomp. 28 *plura bella gessit quam ceteri legerunt*.

§ 50, l. 24 *C. Marius:* added by Lange; Madv. thought the words

quid...Camertium were transferred here from 46.—l. 28 *servos novem Gaditanos:* MSS *eros* whence Halm (from *eros* VIIII) *Erosium Gaditanum. Servos* is my correction.

§ 51, l. 17 *cuius civitatis sit:* B for P *cuiatissiet*, GE *civitatis siet*; Orelli *cuiati' siet*, as though the words were those of Ennius; Halm *cuius enim quisque civitatis sit.*—l. 18 *hodie:* Halm for C *hoc.*

§ 54, l. 17 *atque gravissimi:* so I write for MSS *a gravissimi*, edd. mostly *et g.* Orelli wrote *ac g.*, but *ac* is not found before a guttural in Cic.—l. 19 *ius:* Madv. for C *his;* but I doubt the construction thus given (see my n.). Probably *eis* should be read, with this sense, "nor was this (the fact that they had acquired the *civitas* by prosecution) made a subject of reproach to them".—l. 24 *iudiciorum:* C and edd. *iudicum*; see my n.

§ 57, l. 31 *Clustuminam:* so MSS here and elsewhere in Cic.—l. 33 *praetoriam:* Halm *senatoriam*, which is objectionable on two grounds; (1) *senatoria sententia* is a meaningless phrase, and (2) it is certain that no one could get into the Senate by a successful prosecution, though if there already he might rise to a higher grade.

§ 58, l. 17 *nostris vestrisque:* MSS *vestris nostrisque.* Many emendations have been made; Madvig *nostris lacrimisque*, leaving out *lacrimis* below.

§ 60, l. 7 *proficit:* P^1 *proficitur* here and in l. 8, possibly rightly.

§ 61, l. 13 *novo:* Manutius for MSS *novem*, which Halm thinks a gloss.

§ 64, l. 14 *et familiarissimum:* om. P.

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